

**Report of Review of Copyright Collecting Societies'
Compliance with their Code of Conduct
for the Year 1 July 2022 to
30 June 2023**

**The Hon K E Lindgren AM, KC
30 November 2023**

Table of Contents

A. INTRODUCTORY OBSERVATIONS	3
B. COMPLIANCE WITH CODE REQUIREMENTS OTHER THAN THOSE RELATING TO COMPLAINTS AND DISPUTES	8
Australasian Performing Right Association Limited (“APRA”) and Australasian Mechanical Copyright Owners Society Limited (“AMCOS”).....	8
Copyright Agency Limited (“Copyright Agency”).....	34
Audio-Visual Copyright Society Limited (“Screenrights”).....	48
Phonographic Performance Company of Australia Ltd (“PPCA”)	60
Australian Writers’ Guild Authorship Collecting Society Ltd (“AWGACS”)	73
Australian Screen Directors Authorship Collecting Society Ltd (“ASDACs”).....	78
C. COMPLAINTS AND DISPUTES AS REPORTED BY THE COLLECTING SOCIETIES .	85
Australasian Performing Right Association Limited (“APRA”) and Australasian Mechanical Copyright Owners Society Limited (“AMCOS”).....	85
Copyright Agency Limited (“Copyright Agency”).....	101
Audio-Visual Copyright Society Limited (“Screenrights”).....	112
Phonographic Performance Company of Australia Ltd (“PPCA”)	113
Australian Writers’ Guild Authorship Collecting Society Ltd (“AWGACS”)	119
Australian Screen Directors Authorship Collecting Society Ltd (“ASDACs”).....	119
D. COMPLAINT MADE DIRECTLY TO THE CODE COMPLIANCE REVIEWER	120
Copyright Advisory Group (CAG)	120
E. CONCLUSION	121
APPENDIX A - CALL FOR SUBMISSIONS 2023	122

Report of Review of Copyright Collecting Societies' Compliance with their Code of Conduct for the Year 1 July 2022 to 30 June 2023

A. INTRODUCTORY OBSERVATIONS

1. This report of the Code Compliance Reviewer, the Hon K E Lindgren, AM, KC, is the twentieth annual report of an assessment of the compliance by the following collecting societies with their voluntary Code of Conduct (**Code**): Australasian Performing Right Association Limited ("**APRA**"), Australasian Mechanical Copyright Owners Society Limited ("**AMCOS**"), Phonographic Performance Company of Australia Limited ("**PPCA**"), Copyright Agency Limited ("**Copyright Agency**" and in places "**CA**"), Audio-Visual Copyright Society Limited ("**Screenrights**"), Australian Writers' Guild Authorship Collecting Society Limited ("**AWGACS**") and Australian Screen Directors Authorship Collecting Society Limited ("**ASDACS**"). This "Compliance Report" assesses that compliance during the period 1 July 2022 to 30 June 2023 (the **Review Period**).
2. AMCOS is administered by APRA. Therefore, the practice is adopted of referring to APRA and AMCOS collectively as "APRA AMCOS" except where it is necessary or convenient to distinguish between them. Although APRA and AMCOS are distinct legal entities, they have furnished a single joint report on their compliance with the Code. It is therefore sometimes convenient to conceive of the number of collecting societies as six rather than seven.

3. For the purposes of the review, each society reported to the Code Compliance Reviewer in respect of its compliance with the requirements of the Code during the Review Period. In some cases, their reports were accompanied by documents which provided the evidence for the statements made in the text of their reports (**Accompanying Underlying Documents**).
4. The review and the opportunity to make submissions relevant to it were advertised: see **Appendix A** to this Report for the notice of the review and for details of the publication of the notice.
5. Certain organisations and individuals who were known or understood to have, or to be likely to have, an interest in the review were individually notified of it by the Code Review Secretariat. The Secretariat has prepared and holds an alphabetical list of them. It is available for inspection on request. It is so voluminous, however, that in the interests of convenience it is not attached to this Report.
6. Historically, a significantly revised version of the Code was adopted with effect from 1 July 2019. This implemented recommendations of a review of the Code that was carried out by the Bureau of Communications and Arts Research (**BCAR** and **BCAR Review**) in the Department of Communications, Cyber Safety and the Arts (as the Department of Infrastructure, Transport, Regional Development, Communications and the Arts was then called).
7. Therefore, the Code as so amended is the version that has operated throughout the Review Period.

8. The practice is now adopted, in accordance with the terminology used in the Code as amended, of distinguishing between the person who is the Code Compliance Reviewer and the person who is the Triennial Code Reviewer (prior to 1 July 2019 the one person performed both functions and was called simply the “Code Reviewer”).
9. In implementation of a recommendation made in the BCAR Review, there is now a dedicated website for the Code with information and links to documents and information relevant to the Code, including “for publication” versions of each of the societies’ Annual Compliance Reports to me. That website can be visited at www.copyrightcodeofconduct.org.au.
10. At my suggestion made some time ago, the societies’ reports on compliance are structured by reference to the obligations imposed on the societies by clauses 2, 3 and 4 of the Code. Clause 2 is headed “OBLIGATIONS OF COLLECTING SOCIETIES”, Clause 3, “COMPLAINTS AND DISPUTES”, and Clause 4 “PUBLICITY AND REPORTING”. This structure of the reports directs the attention of the societies to all of the obligations imposed on them by the Code.
11. The Code applies to all collecting societies, but Clause 2.9 applies only to declared collecting societies, namely, Copyright Agency and Screenrights. Clause 2.9 was introduced in March 2017 following the issue on 28 October 2015 of a report that was supplementary to my triennial report dated 30 September 2014.
12. As mentioned in previous years, often in the Report I have used words that make it clear that I am giving an account of what the particular collecting society asserts. It would be tedious for me, and for the reader, if I were to remind the reader of this in association with every statement made in the Report. It should be understood, however, that in describing

what the collecting societies do, I am inevitably relying entirely on their reports to me. I do not conduct an independent investigation of them. In saying this, I do not imply that I have reason to doubt the accuracy of what they report to me, but it is inescapable, and should be frankly acknowledged, that my paraphrasing of the societies' reports gives them an opportunity of self-promotion. This does not apply so much to the "COMPLAINTS AND DISPUTES" section, because, in that section, I am able to test the account given by the society against the correspondence, file notes and other Accompanying Underlying Documents relating to the complaints or disputes.

13. As from 1 July 2019 APRA and PCCA introduced their "OneMusic Australia" (OneMusic) licence. It is convenient to note the background. The copyright in a musical work includes the exclusive right to perform the work in public and to communicate the work to the public: see s31(1)(a)(iii) and (iv) of the *Copyright Act 1968* (Cth) (the **Copyright Act**). That right is the concern of APRA. The copyright in a musical work also includes the exclusive right to reproduce a work in certain circumstances: see s31(1)(a)(i) of the *Copyright Act*. That right is the concern of AMCOS.
14. The copyright in a sound recording includes the exclusive right to make a copy of the recording, to cause the recording to be heard in public and to communicate the recording to the public: see s85(1)(a), (b) and (c) of the *Copyright Act*. These rights are the concern of PCCA.
15. Consistently with their respective concerns, the members of APRA and AMCOS are composers, authors and publishers of music, whereas the licensors of PCCA are recording companies and recorded artists.
16. In the absence of an opt-out by the copyright owner, APRA and AMCOS have the exclusive right to license the use of the musical works that constitute their repertoire. PCCA is a non-exclusive licensor of sound

recordings: it is open to a person to seek a licence directly from the owner of the copyright in a sound recording rather than from PPCA.

17. In the case of a live performance, a licence from APRA alone is required. But in the case of the playing of sound recordings in public, as in shopping centres, cafes, restaurants and gymnasia, a person needed to have a licence in respect of the music itself from APRA AMCOS and a separate licence in respect of the sound recording from PPCA or the rights owner.
18. Understandably, small businesses, in particular, commonly failed to understand the need for two licences and complained about it. Indeed, having obtained a licence from either APRA AMCOS or PPCA, they would often resist attempts to persuade them that it was necessary for them to obtain a further licence from the other society.
19. This explains the advent, as from 1 July 2019, of OneMusic, a joint licensing initiative of APRA, AMCOS on the one hand and PPCA on the other, the aim of which is to provide a single licence from a single source in respect of both the musical work and the sound recording—a one stop shop..
20. More will be said of this below when I address the reports from APRA AMCOS and PPCA.
21. I again record my thanks to Kylie Cooke who constitutes the Code Review Secretariat for her considerable help to me in bringing this Report to a conclusion.

B. COMPLIANCE WITH CODE REQUIREMENTS OTHER THAN THOSE RELATING TO COMPLAINTS AND DISPUTES

22. This section of the Report, structured society by society, addresses significant events, changes and developments during the Review Period by reference to the relevant clauses of the Code.

Australasian Performing Right Association Limited (“APRA”) and Australasian Mechanical Copyright Owners Society Limited (“AMCOS”)

General

23. APRA AMCOS's report on their compliance with the Code was furnished to me on 31 July 2023.
24. APRA AMCOS's joint corporate website is at <https://www.apraamcos.com.au/>.
25. As noted at [2] above, APRA administers AMCOS, and has done so under an arrangement between the two societies since 1 July 1997.
26. APRA AMCOS have previously provided details of the history and constitution of each of them, as well as a history and copy of each licence scheme offered by them.

Legal Framework (Code, Clause 2.1)

27. APRA AMCOS state that they have not changed any of the principal characteristics of their membership structures during the Review Period.
28. The APRA Board has six writer directors, elected by the writer members, and six publisher directors, elected by the publisher members.

29. The AMCOS Board is elected by the members of AMCOS.
30. Being directly elected by the membership, the Boards of both societies are representative and accountable. A list of the current Directors on the APRA and AMCOS Boards is available on their joint corporate website.
31. Access to the following documents relating to, or becoming available in, the Review Period was provided by APRA AMCOS:
- APRA AMCOS “Year in Review” (an annual summary of both societies' performance, achievements and initiatives) for the 2021/22 financial year, by way of a link on the website;
 - APRA Statutory Accounts for the 2021/22 financial year;
 - AMCOS Statutory Accounts for the 2021/22 financial year;
 - An organisational chart showing the overall management structure as at 30 June 2023;
 - The Constitutions of both APRA and AMCOS; and
 - APRA AMCOS Privacy Policy.
32. As at 30 June 2023, APRA AMCOS had 381 [2022: 338] employees (including casual compliance staff) in Australia and 33 [2022: 38] employees in the APRA AMCOS New Zealand office.
33. Neither APRA nor AMCOS is a declared collecting society under the Copyright Act in respect of any of the statutory licences. Accordingly, neither is required to comply with the requirements of the Attorney-General's *Guidelines for Declaration of Collecting Societies*. In practice, however, they report that they satisfy many of those requirements.

Members (Code, Clause 2.2)

34. As at 30 June 2023, APRA had 119,771 [2022: 115,326] Australian and New Zealand members, comprising composers, authors and publishers. Of these, 116,094 [2022: 111,929] were local writer members, and 593 [2022: 567] were local publisher members. In addition, APRA had 3,074 [2022: 2,823] overseas resident writer members and 9 [2022: 7] overseas resident publisher members. Most Australian and New Zealand composers and publishers of music are members.
35. As at 30 June 2023, AMCOS had 29,604 [2022: 27,039] Australian and New Zealand members, of whom 28,362 [2022: 25,909] were writers and 534 [2022: 508] were publishers. In addition, AMCOS had 701 [2022: 617] overseas resident writer members and 7 [2022: 5] overseas resident publisher members.
36. As at 30 June 2023, APRA AMCOS had 1,961 [2022: 1,808] Aboriginal and Torres Strait Islander (**ATSI**) members, which represented an increase of 8.46% [2022: 1.52%] during the Review Period. Although indigenous membership is still relatively low, APRA AMCOS state that they are committed to increasing awareness through the national indigenous membership strategy, overseen by their Director, National Aboriginal and Torres Strait Islander Music Office (**NATSIMO**).
37. APRA AMCOS state that their relationship with their members remains as at the core of their operations, that communication with members is frequent, and that their Member Services staff are expert in advising members on their relationship with APRA AMCOS and on the music business generally. Members continue to be able to interact freely with APRA AMCOS, having direct access to all levels of management.

38. Members, overseas affiliates, the Board's Directors and the media are able to log in to a secure section of the APRA AMCOS website which provides a number of online services. In addition, APRA AMCOS produce a large volume of written material for members, all of which has been provided in previous reports to the Code Reviewer.
39. Royalty queries to the Membership Department are logged in that Department's query tracking system which uses the societies' internal email to forward messages to relevant staff. This system ensures that complaints made by members are also logged and forwarded to the Head of Membership.
40. During the Review Period, the Writer Services and Publisher Relations Departments engaged in email correspondence with writer members on 55,044 separate occasions. In addition, over 2,914,118 emails were sent to members as part of email broadcasts to the membership, which contained information including event notices, payment advices and APRA AMCOS publications.
41. During the Review Period, 6,690 phone queries were logged and detailed statistics were provided in the Accompanying Underlying Documents.
42. During the Review Period, positive feedback was received in relation to the service provided by the Membership Department and copies have been provided to the Code Reviewer.

International relations

43. APRA AMCOS's International Department is responsible for the reciprocal representation agreements with other societies administering performing and mechanical rights around the world.
44. The International Department undertakes the following activities:

- overseas royalty distributions for performing rights to members;
- administration of the non-exclusive mandates granted to APRA AMCOS in respect of certain publishers' repertoires for multi-territory digital services on a Pan Asian basis;
- monitoring the use of the APRA repertoire overseas;
- making claims for missing payments and researching members' notifications and enquiries relating to overseas use and payments; and
- acting as the conduit for communications between APRA AMCOS and their respective affiliated societies, the umbrella representative bodies International Confederation of Societies of Authors and Composers (**CISAC**) and Bureau International des Sociétés Gérant les Droits d'Enregistrement et de Reproduction Mécanique (**BIEM**), as well as dealing with the World Intellectual Property Organisation (**WIPO**).

45. In the most recently audited financial statements (which are for the 2021/22 financial year), APRA collected an amount of approximately AUD\$56.4M [2022: AUD\$60.2m] for the use of Australian and New Zealand repertoire overseas. AMCOS collected over AUD\$3.3M. [2022: AUD\$1.7m] These amounts do not include revenues collected from APRA AMCOS's licensing of certain publishers' repertoires to multi-territory digital services as that revenue is included in the APRA AMCOS digital revenue results.
46. During the Review Period, APRA distributed approximately \$57.5M [2022: \$42.8M] in performing right distributions from affiliate societies to APRA members over 12 monthly distributions. This amount was made up off 315 [2022: 223] individual distribution records from 41 [2022: 26] affiliate societies. AMCOS distributed \$1.8M [2022: \$757.8k] in mechanical distributions from affiliate societies to AMCOS members across 4 quarterly distributions. This amount consisted of 23 [2022: 64] individual distribution records from 10 [2022: 25] affiliate societies

47. In addition, during the Review Period, the International Department was involved in a number of regional and international activities.

Opt Out and License Back

48. APRA continues to provide members with the opportunity to 'opt out' and to request that their entire repertoire be assigned to them for all territories, in respect of all or particular uses, or to 'license back' specific works for specific uses in Australia and/or New Zealand.

49. During the Review Period, APRA received and approved 7 (2022: 13) license-back applications and no opt out applications. A copy of all information and forms relating to opt out and license back, including the plain English information guides, are available on the APRA AMCOS website.

50. For digital music services that operate internationally, AMCOS members are permitted to withdraw their digital reproduction rights specifically in relation to nominated services, rather than for all services within particular categories of use as used to be the case. Put simply, upon giving AMCOS sufficient notice, members can elect to negotiate directly with particular international digital music services.

Member Benefits Program

51. APRA AMCOS have developed an extensive resources and benefits program for their full Australian members that can assist with their careers as songwriters/composers, including exclusive information, advice, services and benefits. Information on the members' program is provided on the website.

Licensees (Code clause 2.3)

52. APRA AMCOS have large licensing departments dedicated to liaising with licensees and potential licensees. The two main areas of licensing operations are: OneMusic and Media Licensing.
53. As noted previously, OneMusic is a joint licensing project of APRA, AMCOS on the one hand and PPCA on the other which aims to provide a single licensing solution for music and recordings in Australia and which was launched on 1 July 2019.
54. Collectively, OneMusic and Media Licensing administered approximately 1202,000 (2022: 114,000) businesses and events in Australia and New Zealand during the Review Period.
55. The fees paid to APRA AMCOS by licensees vary according to the licence scheme applicable to the particular circumstances of use.

OneMusic

56. OneMusic Australia (I am often referring to it simply as "OneMusic") primarily licenses the rights of APRA, AMCOS and PPCA under single licence structures to general businesses that use music including for example, nightclubs, hotels, fitness centres and retail stores.
57. Licensees have access to 'plain English' Licence Information Guides tailored to their industry type (the information guides are required by the Australian Competition and Consumer Commission (**ACCC**)'s conditions of authorisation), and are able to get a quote and take out a licence online via the OneMusic website. Licensees can also complete licence applications by submitting information for processing by the OneMusic licensing department. Links to each Licence Information Guide and Fee

Methodology Guide can be found on the OneMusic website - <https://onemusic.com.au/licences/>.

58. Information on other licences administered by APRA AMCOS can be accessed on its website.
59. During the Review Period, 4,812 (2022: 3,117) clients obtained new licences with 2,292 (2022: 2,119) businesses obtaining new licences via paper application and 2,520 (2022: 998) via the portal.
60. APRA AMCOS report that during the Review Period, OneMusic has been active in two separate consultation processes. One with live music industry over the applicable rate and structure for the use of sound recordings at concerts and festivals. The other with major sporting codes over their use of music. In both cases the relevant peak body, being Live Performance and the Coalition of Major Professional and Participation Sports respectively, have sought and obtained authorisations from the ACCC to enter into a consultative process on behalf of their members.
61. OneMusic has supported both applications as it sees the benefit of conducting consultations through industry associations. As at the end of the Review Period, both those consultations remained ongoing. Further detail in relation to the dispute with Live Performance Australia was provided in the Underlying Documents.
62. During the Review Period, the OneMusic engaged in more than 353,139 (2022: 393,876) contacts with licensees, including by letter, email and telephone calls. A breakdown of the statistics has been provided by APRA AMCOS.
63. Details have been provided of emails of appreciation received by APRA AMCOS from licensees and/or potential licensees in relation to the services provided by the Licensing Departments.

Media Licensing

64. The Media Licensing Department covers four key areas of licensing: *Broadcast Licensing; Digital Licensing; Recorded Music Licensing; and Key Industries.*
65. **Broadcast Licensing** includes commercial and community radio, the ABC and SBS and subscription and commercial television. In total, approximately 709 [2022: 714] licensees were administered by the Department during the Review Period.
66. The Department also administers “Production Music” (AMCOS- controlled Production Music is music specifically written and recorded for inclusion in all forms of audio and audiovisual productions). There were 615 [2022: 498] Australian production music clients licensed during the Review Period.
67. **Digital Licensing** includes video on demand services, digital subscription music services, UGC (social media) services, music downloads, online fitness, ringtones and general websites. In total, approximately 519 [2022: 605] licensees of this category were administered during the Review Period.
68. **Recorded Music Licensing** includes CD and vinyl record sales and videographers. In total, approximately 194 [2022: 220] licensees of this kind were administered during the Review Period.
69. **Key Industries** include schools, universities, TAFEs and colleges, state and federal government, airlines and luxury cruiselines and dramatic context. Approximately 10,876 [2022: 10,275] key industry licensees were administered during the Review Period.

70. Clients of the Media Licensing Department are, for the most part, aware of their copyright and licensing obligations.

Information provided to Licensees

71. APRA AMCOS's website contains a music licences section with information in relation to the various licences and with contact details for the relevant Licensing Department, including links to public performance licences now being administered through *OneMusic*:
<http://apraamcos.com.au/music-customers/>
72. APRA AMCOS state that information made available to licensees and potential licensees differs according to the nature of the particular licence. For example, sophisticated national broadcasters and telecommunications companies generally require less information than small business operators who have less exposure to copyright law and limited access to specialist legal advice. The level of information provided takes these factors into account.

APRA AMCOS relationship with relevant trade associations

73. APRA AMCOS report that they continue to work hard to maintain relationships with various bodies representing major licensee groups, including television and radio broadcasters, record companies, online service providers, small businesses, hotels, restaurants, fitness centres and educational institutions.
74. In addition, APRA AMCOS consult regularly with relevant trade associations in relation to the introduction of new licence schemes or material variations to existing licence schemes. APRA AMCOS note that this approach is demonstrated by the successful negotiation of new licence schemes with relevant industry bodies.

Tariff Reviews

75. APRA AMCOS have previously provided detailed information in relation to the history and development of all significant existing licence scheme tariffs.
76. The following tariffs were introduced, re-negotiated or phased-in during the Review Period.

Media Licensing

77. During the Review Period APRA AMCOS renewed licences with major licensees including Spotify and Meta (Facebook).
78. As at the end of the Review Period, APRA AMCOS were still in the process of consulting with OneMusic Australia licensees to renew or establish licence arrangements with a number of major media licensing services including Amazon, YouTube, Deezer and Twitch.
79. AMCOS renewed its licences with Australian Commercial Television Networks (Seven, Nine and Ten) with effect from 1 July 2022. At the same time AMCOS introduced a new Approved Program Licence process to license synchronisation rights for certain types of television programs that are not covered by the licences with Commercial Television Networks.

Multi-Territory Licensing

80. The aim of APRA AMCOS's Multi Territory Licensing is to co-operate with music publishing rightsholders in order to establish a simple one-stop shop for multi territory licensing schemes for digital, online and mobile usage, covering the largest number of territories for the largest possible repertoire of musical works.

81. Rightsholders give APRA AMCOS non-exclusive rights in certain repertoire of its musical works. APRA then licenses that repertoire to digital service providers in its mandated territories and undertakes the ongoing invoicing, processing, claiming and distribution for online service types.
82. APRA AMCOS's Multi Territory Licensing commenced across the Asia Pacific region in July 2013 and currently represents Universal Music Publishing, Hillsong Music Publishing, Concord Music Publishing, Mushroom Music Publishing, Downtown Music and Songtrust Music, Origin Music Publishing, Cooking Vinyl, Ultra Music Publishing, BUMA/STEMRA (APRA's Dutch sister society) and STIM (APRA's Swedish sister society).

Disaster Relief

83. APRA AMCOS report that during the Review Period they have continued their policy regarding Disaster affected licensees.
84. APRA AMCOS's actions, intended to alleviate financial pressure on affected businesses, include deferring licence fee renewals, extension of payment periods, and making corporate donations to relief appeals.
85. APRA AMCOS staff use online, print and broadcast media sources to remain actively aware of possible areas that may be affected by disaster and monitor events closely to establish the appropriate course of action.

New South Wales Floods

86. In response to the major rainfall and flooding that hit the Forbes and Lismore areas Northern NSW in November 2022, OneMusic Australia held invoicing for all affected businesses within the natural disaster declared areas. The held accounts have been released over the past 8 months as businesses recover.

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

87. The most recently audited financial statements for the year ended 30 June 2022 show that APRA AMCOS's total combined net distributable revenue for that year was \$534.2m (2021: \$442.6m).
88. APRA and AMCOS distribute royalties quarterly.

Distribution Rules and Practices

89. APRA and AMCOS maintain, and make available on its website, comprehensive Distribution Rules and Practices. APRA AMCOS have published a 'plain English' information guide summarising its Distribution policies, including how undistributed funds are dealt with.
90. APRA AMCOS update their Distribution Rules and Practices from time to time, in accordance with their respective Constitutions. APRA AMCOS regularly consult with their Boards and other key industry groups in relation to changes to Distribution Rules and Practices, considering the views of each membership, objective data regarding performances, and the approaches of affiliated societies to the process and methods of distribution.
91. The APRA Distribution Rules were updated in the Review Period to:
- improve clarity regarding self-reporting claims;
 - update information about Article 95 deductions and deductions generally; and
 - remove the reference to exact durations for Promoted Concerts.
92. The APRA Distribution Practices were updated in the Review Period also to:

- remove the reference to exact durations for Promoted Concerts; and
- update the reference to Cinema data supplier.

93. The AMCOS Distribution Rules were updated in the Review Period to:

- update information regarding Network TV commission rates; and
- add details regarding use-type weighting for AMCOS TV distributions.

94. The AMCOS Distribution Practices were not updated in the Review Period.

95. APRA AMCOS have a large Membership Department whose staff are trained to deal with members' (and others') enquiries, including in relation to distribution. The Boards of APRA and AMCOS both have a Membership and Distribution Committee that continue to deal with, among other things, requests by members for distributions in relation to "unlogged performances". This committee also deals with complaints from and disputes between members. Members are strongly encouraged to resolve disputes between them using Resolution Pathways, APRA AMCOS' external Alternative Dispute Resolution facility.

Investment in Systems Development

96. APRA AMCOS's systems development strategy is to continuously innovate and deliver new services at speed, in response to the needs of writers, publishers and industry stakeholders. Major strategic business initiatives continued to be delivered across business as usual, automation, business processes, business critical and digital services areas, representing a significant long-term value proposition.

Automation

97. Extensive work has continued to be undertaken to automate mundane, resource-intensive tasks, identify inefficiencies in business processes, and

develop policy and automation strategies to combat these inefficiencies. APRA AMCOS state that at the end of the Review Period, 61 Robotic Process Automations (RPA) were in production, with 1,970 days of 'Human Time' saved.

Large strategic projects

98. Strategic projects being worked on and monitored by APRA AMCOS' Executive Leadership Team during the Review Period include:

- CRD (Common Royalty Distribution) Phase 3
- AREV to CMS
- Member Writer Portal
- Mobile Application
- Publisher Portal
- Earnings Insights
- Revenue Portals
- International Data Analytics and Processing (IDAP)
- Distribution Streaming (PoC for NextGen Distribution)
- Repertoire Management
- Video On Demand (VOD) Disaggregation
- Ingestion & Matching
- Amplify
- Production Music Portal
- Clearance Facility Portal
- Security

99. APRA report that all member facing projects have received positive customer feedback and provide valuable, feature-rich services to its members

Cyber Security

100. The continued pace of digital business and an ongoing transition to cloud are challenging traditional security approaches. APRA AMCOS advise that they continuously monitor and improve their resilience to cyber threats and have implemented the following:

- continued its cyber security resiliency program to ensure it remains front of mind with staff;
- continued organisational Cyber awareness training;
- completed tech debt remediation (Legacy system upgrades, patching, decommissioning);
- completed cyber security review of Cloud systems in AWS & Azure and security policies;
- completed future Cyber Security action plan; and
- work with multiple third-party vendors to ensure best fit solutions.

101. A cyber security plan and assurance framework has been developed for implementation to strengthen APRA AMCOS's cyber security posture.

Collecting Society Expenses (Code, Clause 2.5)

102. The APRA accounts show that its operating expenses are deducted from total gross revenue.

103. Commission on revenue pays AMCOS's expenses. The commission rate depends on the source of the revenue.

104. According to the most recent audited financial statements, for the year ended 30 June 2022, APRA AMCOS achieved a group expense to revenue ratio of 13.34% [2021: 12.68%].

Governance and Accountability (Code, Clause 2.6)

105. The Annual Report of each of APRA and AMCOS contains the matters set out in clause 2.6(e) of the Code.

106. The relationship between APRA and AMCOS and their respective Boards of Directors is governed by each company's Constitution and Charter of Corporate Governance. The Boards have both established Audit, Risk & Culture Sub-Committees, which continue to meet at least six times a year and which concentrate exclusively on issues relating to Corporate Governance.

107. The APRA AMCOS Chief Executive and Executive Leadership Team meet regularly to discuss matters relating to corporate governance and the day to day operation and management of the two societies. The Executive Leadership Team also deals with policy setting and other matters relating to Human Resources and Industrial Relations matters, risk management, infrastructure, general administration, and regulatory compliance.

108. APRA AMCOS have an internal "Staff Code of Conduct" and a "Service Provider Code of Conduct", both of which complement the Code: the Staff Code sets out the standards according to which staff are expected to treat one another; the Service Provider Code sets out APRA AMCOS's commitment to shared professional standards.

109. APRA and AMCOS maintain complete financial records which are audited each year, and a statement by each company's auditor is included in their Annual Reports.

110. During the Review Period APRA AMCOS prepared additional detailed information at an anonymised or aggregate level about the accounting and distribution of licence revenue and reporting of expired undistributed funds. The APRA and AMCOS 'Transparency Reports' for the financial year ended 30 June 2022 were provided to the Code Compliance Reviewer.

Australian Competition and Consumer Commission (ACCC) Authorisation

111. As previously reported, APRA's membership, licensing, distribution and international arrangements are all the subject of an "authorisation" by the ACCC.

112. In granting the authorisation in July 2020 for a period that will expire in July 2024, and for previous authorisations, the ACCC confirmed that the conduct and arrangements for which APRA sought re-authorisation were likely to result in a public benefit which would outweigh the likely public detriment. The conditions of authorisation primarily focus on improving the transparency of APRA's licencing and distribution arrangements.

113. APRA reports that it has complied with the ACCC's conditions of authorisation.

Staff Training and Development (Code, Clause 2.7)

114. APRA AMCOS report that their staff at management level continue to be comprehensively trained regarding the Code.

115. The Executive Leadership Team meets several times per week to discuss matters relating to policy and strategy development and assessment. At these meetings issues relating to service and staff performance and training are regularly addressed.

116. In addition, the wider senior management team meets monthly, providing a cross-departmental opportunity to discuss interaction with stakeholders and wider communities and of reviewing company policies. At these meetings, the Code (including the complaints procedures and the review process) is regularly discussed.
117. Senior Manager, Manager and Team Leader forums are held at regular intervals throughout the year at which the Chief Executive and Executive Leadership Team address the middle and frontline management teams. They provide an opportunity for the latter to raise any concerns, suggestions or initiatives directly with the senior leadership, and for the Chief Executive to share information about business and membership trends and concerns, and to set performance expectations. In addition, other members of the senior management team are invited to address these groups.
118. The Music Licensing and Membership divisions usually hold staff training conferences at least once per year.
119. All departments in APRA AMCOS conduct regular departmental staff meetings which provide important opportunities to discuss Code related topics, including client service, conflict management, time management and the procedures for identifying and dealing with complaints.
120. APRA AMCOS also hold company-wide staff briefings on a monthly basis. The briefings focus on the respective needs and expectations of general staff, middle and senior management and also of the organisation. The focus of the training sessions has in the past covered the Code, the ACCC authorisation, as well as performance within and between departments and with external stakeholders.

121. APRA AMCOS have provided details of the induction and training sessions that the People & Culture division provides for staff. The Code and internal Staff Code of Conduct are central components of the induction program that all new staff attend when they join the company. As well as the induction sessions, roles with a high level of client and/or member contact also receive additional training from within the relevant departments in relation to handling complaints and the complaints procedure.

122. APRA AMCOS have developed a “brand blueprint” which further outlines its purpose, values and “personality”.

123. APRA AMCOS report that their website and that of OneMusic Australia continues to include a “live chat” facility so that responses to urgent enquiries can be provided in real time. The staff who respond to live chat enquiries are required to attend two, two-hour training sessions to understand the live chat service guidelines and to ensure that the highest level of customer service is offered via this channel. A copy of the guidelines has been provided previously. As previously reported, in June 2020, digital chat assistance technology ‘APRABot’ was implemented within the live chat facility, which has resulted in up to 70% of APRA AMCOS and 50% of OneMusic queries being handled in real time by this technology.

124. APRA AMCOS claim that they are committed to taking a proactive approach to staff training, development and wellbeing, with such internal programs including:

- Higher Education Assistance Program
- Leadership Development Programme
- Mentoring & High Potentials Programme
- Buddy Program
- In-house Training Programs
- BeSpoke Coaching (leadership presence and presentation skills)

- Employee Assistance Programme
- Purchased Leave Scheme
- Career Development Support

125. During the previous Review Period, APRA AMCOS engaged in training, which was conducted by peak NSW arts and disability organisation, Accessible Arts. The 6 sessions run for 4 teams, covered accessible marketing and communication, disability confidence & being accessible online. The business also partnered with disability advocate and access consultant Eliza Hull, who ran 3 targeted workshops with the Membership, Events and Communications & Marketing teams on how business processes can be more accessible and inclusive, that saw teams start to implement learnings. The Equity Action Plan introduced in June 2021 remains on foot with a progress report prepared for the Review Period being made available.

126. APRA AMCOS continue to run an Employee Wellbeing Program that includes education seminars on resilience, stress management, work-life balance and dealing with change.

127. Under the *Workplace Gender Equality Act 2012 (Cth)* (**WGE Act**), APRA AMCOS continue to submit their annual report to the Workplace Gender Equality Agency (**WGEA**), outlining its performance against a set of standardised gender equality indicators. A copy of the most recently filed report is available on the APRA AMCOS website and, as required by the WGE Act, staff and members are notified of the report each year.

128. APRA AMCOS's internal "Wiki" facility continues to form the basis of staff training and is a key information source for all staff. All new APRA AMCOS staff are trained in accessing and using the Wiki facility which contains policies relating to Client Service, Human Resources and Work, Health & Safety.

Education and Awareness (Code, Clause 2.8)

129. APRA AMCOS report that they continue to devote “considerable resources” to the education of members, licensees, industry associations and members of the public, regarding the matters set out at CI 2.8 (a) of the Code. APRA AMCOS have provided a list of the numerous organisations and associations with which they have an ongoing relationship.

130. APRA claims that, as Australia's oldest and largest collecting society (incorporated in 1926), it is in a position to have developed extensive materials and expertise in relation to education and awareness matters. APRA AMCOS participate and contribute to the following education and awareness initiatives:

- Various Grant Programs, Sponsorships, Competitions and Promotions
- National Aboriginal and Torres Strait Islander Music Office (NATSIMO)
- Ambassador Program
- Member Events
- Member Advisory Group Development
- SongHubs and SongMakers programs
- Sounds Australia
- Live Music Office
- Various industry related organisations and programs
- Seminars and public forums

131. Since July 2020, the collecting societies that adhere to the Code have maintained a consolidated online portal for the public dissemination of governance, financial and data information, including all documents relating to the Collecting Societies' compliance with the Code. The

website continues to be maintained and can be viewed at

<https://www.copyrightcodeofconduct.org.au/>.

132. In their report, APRA AMCOS provide updates and information on their educational activities in detail under the headings “Member Education”, “Licensee Education”, “International Relations”, “Government Relations” and “APRA AMCOS Website & Social Media”.

133. I will not set out the detail here but the following is a summary:

- Member Education – 280 events conducted and attended in person and online by local and overseas members;
- Publisher Members –Publisher Pulse seminars and one on one publisher sessions held regularly;
- Licensee Education – attendance at approximately 180 industry association functions, events and awards ceremonies and production of a large volume of written material for licensees;
- International Relations – involved in a number of regional and international activities;
- Government Relations – continued to develop their profile with State and Federal governments, Oppositions and Departmental staff both to increase the general awareness of APRA AMCOS's breadth of operation and to lobby on specific relevant issues; and
- Social Media – Facebook, Twitter, Instagram, YouTube and LinkedIn: all with increased activity; all platforms allow greater and more time-sensitive means of communications.

134. As previously reported, the APRA AMCOS website provides broad information about the services provided to members and licensees. The website is at the heart of the organisation's digital communications strategy and also provides information of interest to the wider public. The

site contains a vast amount of information about copyright in general, and the activities of the two societies in particular. Among other things, members of the public can search the website to check composer details of particular works within the APRA repertoire.

135. Traffic to the APRA AMCOS website decreased during the Review Period, from 386,619 users to 332,320. Sessions also decreased from 642,499 to 584,474 and page views decreased to 1,029,921 from 1,174,822 the previous year. Users spent an average 2:25 mins on the APRA AMCOS site, compared to last year's average of 2:26 mins.
136. The *OneMusic* website (<https://www.onemusic.com.au/>) contains general information about *OneMusic*, an FAQ section, plain English guides to each of the licence schemes, downloadable PDFs of *OneMusic* licence agreements, and the opportunity for licensees to get a quote for many of the licence schemes online. The website also links to the *OneMusic* eCommerce portal, which enables all licensees to pay their licence fees online and some licensees (according to their industry) to obtain their licence at a time convenient to them.
137. Site traffic increased to 417,794 users compared to last year's 147,752 users and 561,679 sessions compared to last year's 198,724 sessions. During the Review Period 718,869 pages were viewed. Users spent an average of 32 seconds on the site.
138. The Communications Department is responsible for the maintenance and ongoing development of the APRA AMCOS and *OneMusic* websites.

Complaints and Disputes (Code, Clause 3)

139. This subject is dealt with in a separate section, "COMPLAINTS AND DISPUTES", below.

Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)

140. APRA AMCOS report that they have kept their members and licensees updated with information regarding the Code, in particular by maintaining relevant information including a copy of the Code on their website.
141. As reported elsewhere in this Report, the collecting societies continue to maintain a new standalone website for the Code
[\(https://www.copyrightcodeofconduct.org.au/\)](https://www.copyrightcodeofconduct.org.au/)
142. The website is an initiative that was undertaken in response to the recommendations of the BCAR, which recommended:
- increased clarity around the role of the Code;
 - improved transparency around collecting societies' operations; and
 - strengthened governance arrangements for collecting societies and the Code
143. Prior to the Review Period, compliance reports were provided to the Code Reviewer on a confidential basis. As a result of the review, societies are now publishing their compliance reports, with any confidential material (such as correspondence between a society and a complainant) redacted.
144. In addition, on their own website APRA AMCOS invite any interested party to make submissions to the Code Reviewer as part of the annual compliance process.
145. Of course, APRA AMCOS's annual report to the Code Compliance Reviewer is itself directed to its compliance with the Code.

Monitoring, Review and Amendments (Code, Clause 5)

146. APRA AMCOS report that they constantly explore opportunities for obtaining more accurate information of music usage in an attempt to improve the accuracy of distributions made to writers, publishers and affiliates.
147. The Data Operations Department receives music performance reports from radio and television stations, streaming and download services, concert promoters, members and many other types of users of copyright music.
148. Further, APRA AMCOS continue to invest significantly in music recognition technology, with the cooperation of licensees, to ensure accurate distribution of royalties for the performance of music in retail and hospitality settings.
149. Music recognition technology has now been rolled out in select areas across the fitness, retail, hospitality and dance industries, and continued efforts have been made to expand its use in nightclubs.
150. APRA AMCOS utilises this technology at licensed venues and music festivals where recorded music is featured, to facilitate the reporting of the music played at those venues or events.
151. APRA AMCOS also uses music recognition technology for identifying music used in advertisements, providing an audio upload function of the writer and publisher portals to upload audio files directly to APRA AMCOS' database and technology providers' databases so that the audio can be recognised and matched with music used in advertisements, providing accurate and efficient tracking of jingle play on television and radio.

Copyright Agency Limited (“Copyright Agency”)

152. Copyright Agency’s report on its compliance with the Code was furnished to me on 31 July 2023.
153. Copyright Agency’s website is at <https://www.copyright.com.au>.
154. Copyright Agency merged with Viscopy on 1 December 2017. Prior to that merger, it had managed Viscopy’s services under a services agreement since 2 July 2012. Viscopy members are now members of Copyright Agency, and Copyright Agency is now the licensor for the artwork licences that it previously managed for Viscopy.

General

155. Copyright Agency is a company limited by guarantee and has more than 39,000 members. They include writers, artists, surveying firms, publishers and other collecting societies.
156. In its report to the Code Compliance Reviewer, Copyright Agency has categorised its operations as follows:
- “• in accordance with its appointments by the Australian Government:
 - management of the statutory licences for educational and government use of text, images and print music, including negotiation, collection and distribution of fair compensation for content creators; and
 - management of the artists’ resale royalty scheme; and
 - in accordance with the authority of its members, and with the oversight of the Copyright Tribunal, formulation and management of ‘voluntary’ licensing arrangements, principally for the business sector.”
157. Copyright Agency reports annually to the relevant Minister (currently the Attorney-General) (**the Attorney**) in accordance with statutory obligations in the Copyright Act and to the Minister for the Arts in accordance with statutory obligations in the in the *Resale Royalty for Visual Arts Act 2009*

(the **Resale Royalty Act**). Its annual reports are tabled in Parliament and are available on the Copyright Agency website.

158. As a declared collecting society, Copyright Agency also operates in accordance with the Attorney-General's *Guidelines for Declared Collecting Societies*.

Legal Framework (Code, Clause 2.1)

159. Copyright Agency states that during the Review Period it complied with its obligations under the legislation and other documents referred to in clause 2.1 of the Code.

160. On its website, Copyright Agency publishes the following documents related to governance:

- Constitution;
- Corporate Governance Statement;
- Customer Services Charter;
- Privacy Policy;
- Dispute Management Procedures;
- Complaints Management Procedures;
- the Code;
- the Australian Government Guidelines for Declared Collecting Societies;
- the Attorney-General's Declaration of Copyright Agency for Div 4 of Part IVA of the Copyright Act; and
- the Copyright Tribunal's Declaration of Copyright Agency for Div 2 of Part VII of the Copyright Act.

161. Copyright Agency's in-house legal team continues to oversee compliance issues, including the implementation of any necessary or desirable changes to its policies or practices and monitors relevant legal and regulatory developments.

Members (Code, Clause 2.2)

Paragraph (a): eligibility for membership

162. Membership of Copyright Agency is free and is open to all eligible creators, owners and controllers of copyright in Works and Published Editions (as defined in the Copyright Act).

163. Applications for membership can be made online and are approved by the Senior Management Team, under delegation from the Board, and are reported to the Board.

Paragraph (b): treatment of members

164. Copyright Agency states that it continues to adopt a range of policies and processes aimed at ensuring that its members are treated fairly, honestly, impartially, courteously, and in accordance with its Constitution and membership agreements. It has a "Service Charter", induction training for new staff and periodic updates for all staff on the requirements of the Code.

Paragraph (c): transparency of dealings with members

165. In its report to the Code Compliance Reviewer, Copyright Agency gives details of its communications with its members and potential members about membership arrangements, distributions of licence fees and payments, including:

- information on the Copyright Agency website and its Constitution (available on its website);
- broadcast and one-on-one communications about changes to membership, distribution or payment arrangements;
- responding to enquiries in accordance with the Service Charter;

- providing secure online member accounts which enable members to review their membership, distribution and payment details; and
- information in its annual reports, which are published on the website.

Paragraph (d): availability of Constitution

166. Copyright Agency advises that its Constitution is available to the public, and to new and potential members, on its website.

Licensees (Code, Clause 2.3)

Paragraph (a): treatment of licensees

167. Copyright Agency reiterates what it has said in relation to members as recounted above, substituting “licensees” for “members” and “licence agreements” for “membership agreements”.

Paragraph (b) transparency of dealings with licensees

168. Information on the Copyright Agency website about licensing includes:

- plain English guides for different types of businesses;
- plain English guides for pay-per-use licences;
- information for media monitoring organisation customers;
- data processing protocols; and
- information in annual reports.

Paragraph (c) Information about licences and licence schemes

169. Information is published about licences and licence schemes on the corporate website and on the RightsPortal website (*rightsportal.com.au*) and via other channels, including seminars, trade shows, trade publications and in response to specific enquiries.

170. The terms of the licence agreements are reviewed regularly to ensure that they are written in plain language, correspond with Copyright Agency's mandate, and reflect feedback from licensees.

Paragraph (d): setting of licence fees

171. For the statutory licences for education and government, Copyright Agency mostly deal with bodies or departments representing a class of licensees such as Universities Australia (UA) for universities; Copyright Advisory Group (CAG) for most schools and TAFEs; and the Department of Infrastructure, Transport, Regional Development Communications for the Commonwealth government; rather than with individual licensees.

172. Copyright Agency reports that in 2022, Copyright Agency reached agreement with CAG on the copyright licence fees payable by the school sector for 2023 to 2025 under the Education Statutory Licence, with an option to extend to 2026.

173. In February 2023, Universities Australia and Copyright Agency reached agreement on copyright fees from 2023 to 2026, and on the balance of fees payable for 2019 to 2022.

174. Copyright Agency also has individual licence agreements with more than 1,000 other education providers, such as registered training organisations, and with licensees for its voluntary licences, for example, media monitoring organisations.

175. In September 2022, Isentia and Copyright Agency entered into a new agreement regarding copyright fees for media monitoring, bringing its legal proceedings to an end. Copyright Agency's appeal of the October 2021 decision of the Copyright Tribunal was dismissed in September 2022.

Paragraph (e): acknowledgement of industry associations

176. Copyright Agency acknowledge the role of industry associations with which they have dealings, including the Public Relations Institute of Australia, Australian Local Government Association, Association of Corporate Counsel, Early Childhood Australia and Independent Tertiary Education Council Australia (ITECA), Independent Higher Education Australia (IHEA), and English Australia.

Paragraph (f): consultation with industry associations

177. During the Review Period, Copyright Agency sought input from IHEA, ITECA and English Australia.

Paragraph (g): response to requests for licence fee methodology or factors

178. Copyright Agency reports that where licensees requested further information in connection with negotiation of licence fees, that information was provided.

Paragraph (h): request for ADR

179. In the Review Period, Copyright Agency reports that no requests for ADR were received.

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

Paragraph (a): distribution policy

180. On its website, Copyright Agency publishes its:

- distribution policy;
- distribution schedule;
- payment timetable (when payments are made to members' bank accounts);
- information sheets about individual distributions;
- deductions before distribution; and

- articles in our online Help Centre on a range of distribution-related issues.

Paragraph (b): distribution in accordance with distribution policy and Constitution

181. Copyright Agency distributes payments in accordance with its Constitution and Distribution Policy.
182. Copyright Agency informs members of proposed and recent changes to distribution policies and processes via a range of channels, including one-on-one communications, broadcast emails, group meetings, the corporate website including information sheets for each major distribution.

Paragraph (c): licensee requests regarding rights payments

183. Copyright Agency reports that during the Review Period it did not receive any requests regarding rights payments.

Paragraph (d)(i): consultation with members

184. There were no substantive changes to distribution policies in the Review Period. Copyright Agency's information sheets on each major distribution continue to outline any changes since the previous distribution.
185. However, in July 2022, Copyright Agency amended its distribution policy and webpages on Fees and Unpaid Allocations to reflect a change in policy regarding unpaid allocations ('rollovers'), which took effect from 1 July 2022.

Paragraph (d)(ii): Plain English guidelines

186. Copyright Agency's distribution policy, and information sheets about individual distributions, are in Plain English.

Collecting Society Expenses (Code, Clause 2.5)

Paragraph (a): expenses of managing and operating the society

187. Copyright Agency reports that the operating costs associated with managing the statutory and voluntary licence schemes continue to be met from its revenue. In a few cases, the deduction is a fixed percentage but in most cases the deduction represents the actual and projected costs relevant to the particular licence scheme.
188. Copyright Agency publishes information about the methodology for deduction from licence fees for anticipated operating costs on the Fees webpage on its website. Members also receive itemised information about deductions with each payment. In addition, it publishes information about expenses, including the expense to revenue ratio for each financial year, in its Annual Report.
189. Copyright Agency's Board of Directors approves the society's annual operating budget and reviews the budget at each Board meeting.

Paragraph (b): other amounts

190. Copyright Agency's Constitution allows it to deduct up to 1.5% of revenue for application to cultural or benevolent purposes. Its Board approves the amount to be allocated for these purposes. Copyright Agency publicly invites applications for cultural support. The Board approves the successful applications following a recommendation process by a committee of the Board.

Governance and Accountability (Code, Clause 2.6)

Paragraph (a): Board accountable to members

191. Under Copyright Agency's Constitution, its Board comprises directors elected by author, artist and publisher members respectively, and directors appointed by the Australian Society of Authors and the

Australian Publishers Association. The current directors and the capacity in which they were elected or appointed appear on Copyright Agency's website.

Paragraph (b): maintenance of financial records

192. Copyright Agency reports that it maintains proper and complete financial records, including providing detailed reports to the Board and to its Audit, Finance & Risk Committee.

Paragraph (c): audit of financial records

193. The Society's financial statements are audited annually. Information about revenue, expenses and distribution of licence fees is included in each Annual Report, together with the auditor's report, and is made available to the public on Copyright Agency's website, as well as to members and to the Minister. In addition, the Annual Report is tabled in Parliament.

Paragraph (d): information to members

194. On request, Copyright Agency provides reasonable information to members about entitlements to payment, in accordance with privacy and confidentiality obligations.

Paragraph (e): information in annual report

195. Copyright Agency's annual reports provide information about:

- total revenue for the period;
- total amount, and nature of, expenses;
- total amounts allocated and paid to members, including breakdowns by licence sectors;

Paragraph (f): information in annual publications

196. Copyright Agency's annual reports provide information about the accounting and distribution of licence revenue, including:

- classes of Licensees from whom licence revenue was received;
- classes of Members to whom licence revenue was paid
- categories of copyright material for which licence revenue was received; and
- domestic vs international payments of licence revenue

Paragraph (g): information about expired undistributed funds

197. Copyright Agency's annual reports provide information about expired undistributed funds, including:

- the reason/s why funds remain undistributed to rightsholders;
- the steps taken to locate rightsholders and to distribute funds; and
- information on the allocation and use or proposed use of the funds

Staff Training (Code, Clause 2.7)

198. Copyright Agency's procedures for making its staff aware of the Code include:

- induction training for new staff members on the requirements of the Code;
- policy documents implementing those requirements on the society's intranet; and
- periodic updates for all staff on the requirements of the Code.

Education and Awareness (Code, Clause 2.8)

Paragraph (a): activities to promote awareness

199. Education and awareness activities conducted by Copyright Agency for its members, licensees and other stakeholders include:

- information on the Code website, including communications to members, licensees and other stakeholders about that website;

- information on the corporate website and other websites managed by Copyright Agency;
- emails to members
- social media channels
- presentations at Copyright Agency events and other events;
- training for licensees participating in surveys of usage;
- engagement with industry and professional associations that represent members and licensees; and
- mainstream and specialist media (such as industry magazines and newsletters).

200. Copyright Agency also uses the above channels to provide information about:

- matters relating to membership, including eligibility, benefits, responsibilities, policies and procedures; and
- matters relating to licensing, including benefits, responsibilities, obligations under copyright law, policies and procedures.

201. Information on the website relating to membership includes:

- membership terms and conditions;
- information about distributions, including distribution policy, information about each distribution (such as the data used), and forthcoming distributions;

202. Information on the website relating to licensing includes:

- licences available for various sectors (e.g. business, not-for-profit, education);
- pay-per-use licences;
- plain English guides;
- works excluded from voluntary licences;

203. Copyright Agency has also provided funding to other organisations to conduct copyright education and awareness activities, including to:

- Australian Copyright Council;
- National Association for the Visual Arts; and
- Australian Society of Authors.

204. Copyright Agency also creates awareness of its role through sponsorship and the publicity associated with grants from the Cultural Fund. For example, in the Review Period, it supported the Educational Publishing Awards Australia (**EPAAs**) AATE/ALEA National Conference (for literacy educators), writers' festivals and Small Press Network Independent Publishing Conference.

Paragraph (b): factors affecting activities to promote awareness

205. Copyright Agency claims that its activities to promote awareness are proportionate to the number of members and licensees we have, and our revenue.

206. Copyright Agency liaises with other Collecting Societies and some activities are done jointly from time to time. The Collecting Societies jointly support the services provided by the Australian Copyright Council, including information, advice and training on a large range of copyright issues.

Paragraph (c): particular information about membership and licensing

207. Information on the website relating to membership includes:

- a 'Join Us' webpage, with information about eligibility, benefits of membership and how to join;
- membership terms;
- policies and procedures affecting members, including those relating to distributions and disputes.

208. Information on the website relating to licensing includes:

- benefits of obtaining a licence, including a video for individually licensed education institutions and a webpage for businesses;
- information for licensees about their responsibilities is provided in training sessions, and is also available on the website, for example guidelines for online teaching; and
- policies and procedures affecting licensees, including those relating to applying for a licence (including where this can be done online).

Paragraph (d): guidelines about expired undistributed funds

209. There is a webpage about unpaid allocations on Copyright Agency's website.

Paragraph (e): online portal for Code

210. With other collecting societies, Copyright Agency launched a website for the Code which is jointly maintained by the societies.

Reporting by Declared Collecting Societies (Code, Clause 2.9)

211. As noted earlier, clause 2.9 of the Code deals specifically with reporting required by Declared Collecting Societies, of which Copyright Agency is one.

Paragraph (a): information in annual reports

212. Copyright Agency's annual reports provide the information set out in clause 2.9(a).

Paragraph (b): information about licensee classes and expired unpaid allocations

213. The annual reports also provide information regarding:

- classes of recipients of licence fees received from the schools,

- universities and government sectors respectively;
- allocations unpaid after four years from the education sector and government sector respectively, the reasons the allocations were unpaid, and the proportion of unpaid allocations attributable to each reason.

Complaints and Disputes (Code, Clause 3)

214. This subject is dealt with in a separate section, “COMPLAINTS AND DISPUTES”, below.

Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)

Paragraph (a): publicising the Code

215. The Code is available on the Code website, as is information about the annual review of compliance with the Code, the Code Reviewer’s reports, and the Triennial Review of the Code. The Copyright Agency website has a webpage devoted to the Code and contains a link to the Code website.

216. Copyright Agency alerts members and other stakeholders to the Code and to the annual compliance review and triennial review in a number of ways including on its website.

Paragraph (b): statement about Code compliance in annual reports

217. Copyright Agency includes reference to its compliance with the Code in its annual reports.

218. Of course, Copyright Agency’s annual report to the Code Compliance Reviewer is itself directed to its compliance with the Code.

Paragraph (c): notification of contraventions

219. There have not yet been any findings or notifications of contravention of the Code by Copyright Agency.

Audio-Visual Copyright Society Limited (“Screenrights”)

General

220. Screenrights' report on its compliance with the Code was furnished to me on 28 July 2023.

221. Screenrights' website is at <https://www.screenrights.org>.

222. Audio-Visual Copyright Society Limited, trading as “Screenrights”, was established in 1990 to be the declared collecting society for purposes of the statutory licence for the copying and communication of broadcasts by educational and other institutions under the then Pt VA (now Pt IVA Division 4) of the Copyright Act. Under those provisions, Screenrights also represents the owners of the copyright in sound recordings and cinematograph films (and works included in sound recordings and cinematograph films) for the purposes of the statutory licence in favour of educational institutions.

223. In addition, Screenrights is the sole collecting society for the collection of equitable remuneration for the retransmission of free-to-air broadcasts under Pt VC of the Copyright Act.

224. Finally, Screenrights has also been declared to be the collecting society in respect of television, radio and internet broadcasts under the government copying scheme under s 183 of the Copyright Act (Copyright Agency is also declared for that purpose).

225. As at 30 June 2023, Screenrights had 5,159 members [2022: 5,005] and 1,631 licensees [2022: 1,571]. It collects royalty payments from schools, universities, vocational training bodies, government agencies, TAFEs, resource centres, retransmitters and New Zealand schools and tertiary institutions, as shown in the following table:

Type of Entity	Number
Screenrights Members	5159
Licensees	1,631
<i>Schools -- Government, Catholic Systemic, Independent -- Peak Bodies</i>	31
<i>Higher education including universities</i>	62
<i>Private Vocational Education/Training Organisation (inc ELICOS, U3A)</i>	22
<i>Government Agency</i>	469
<i>TAFE (including individual institutions and Departments representing multiple institutions)</i>	12
<i>Resource Centre</i>	5
<i>Retransmitter</i>	4
<i>NZ -- Tertiary</i>	27
<i>NZ – Schools</i>	997
<i>NZ – Resource Centre</i>	2

Legal Framework (Code, Clause 2.1)

226. Screenrights reports that during the Review Period it has complied with the legal framework governing its operations.

227. A copy of Screenrights' key governance documents, including the Constitution, Corporate Governance Statement, Privacy Policy which is in compliance with Australian Privacy Principles, Distribution Policy and Competing Claims Resolution Procedures can be accessed on the corporate website.

228. During the Review Period, a minor amendment was made to the Distribution Policy which is detailed later in this Report.

229. On 1 July 2023, a new procedure was introduced to assist members to resolve competing claims to the same royalties and further details are provided later in this Report.
230. Otherwise, Screenrights made no material changes to any other documents relevant to the legal framework during the Review Period.
231. The Screenrights Board is elected by the members in accordance with the Constitution and the Board includes on an ongoing basis up to 8 General Directors, three Authorial Directors (Screenwriter, Screen Director and Screen Composer) and at least one New Zealand Director. A list of current directors and the Screenrights executive team is available on the corporate website.
232. Screenrights' Legal team oversees compliance with the legal framework governing its operation, including monitoring legal and regulatory developments, overseeing any changes to policies and practices and training of staff in relevant laws including privacy and workplace behaviour laws.

Members (Code, Clause 2.2)

233. Membership of Screenrights remains open to all eligible rightsholders. Membership increased in the Review Period from 5,005 to 5,159 members.
234. Screenrights states that it adopts policies, processes and practices to ensure that members are treated fairly, honestly, impartially and courteously in accordance with its Constitution and the Membership Agreement. This includes staff training such as a comprehensive induction process and Code of Conduct training. Screenrights' Member Services team engages in frequent communication with members via phone, email and a Live Chat feature on the online membership portal *MyScreenrights*.

235. Screenrights adopts a continuous improvement approach to information management and information systems in the interests of transparency and efficiency. It reports that it undertakes ongoing initiatives each year to improve the quality and handling of information, and simplify member engagement with Screenrights. The Society also undertakes initiatives to streamline information processing within its in-house systems to deliver efficiencies to royalty distribution.

236. Some of the key initiatives in the Review Period include:

- improvements to service delivery and engagement with Screenrights via all channels, including the MyScreenrights member platform;
- Simplifying and streamlining the resolution of competing claims to royalties, the outcome of which was the introduction of new Competing Claim Resolution Procedures, effective 1 July 2023, after consultation with members which was overwhelmingly supportive; and
- Improvements to distribution process automation and accuracy, enabling the release of royalties to members sooner.

Licensees (Code, Clause 2.3)

237. Screenrights reports that it adopts policies, processes and practices to ensure that licensees are treated fairly, honestly, impartially and courteously in accordance with the Screenrights' Constitution and the licensing agreements.

238. Screenrights' approach to licensees is built on respect for their needs with the goal of ensuring that they receive fair value while maintaining equitable remuneration for members. Most negotiations of licence agreements are conducted with peak bodies, except in the case of retransmission where the individual licensees are substantial commercial organisations.
239. Screenrights' corporate website contains a Screenrights Licences section where it provides information about the licences available, and what uses are covered by the licences. Further, in relation to the Australian educational statutory licence, information is provided for educators on accessing educational content.
240. A Remuneration Notice is required to be completed by any new licensee under the statutory educational licence. The methodology for calculating the amount of equitable remuneration payable by an educational institution is included in the Remuneration Notice.
241. For the educational statutory licence, Screenrights generally negotiates with bodies that represent a group of licensees such as UA and CAG for schools and TAFEs.
242. The educational scheme agreement covering 98% of Australian schools was renewed in 2021, remained in force during the Review Period and will expire on 31 December 2024.
243. For the government statutory licence, Screenrights deals with the Attorney General's Department for the Commonwealth and with a collective representative group for the States and Territories. New Government Copying agreements to include internet copying have been executed by the State of Victoria and the Australian Capital Territory and Tasmania. The remaining States and Territories continue to

remain in the process of being finalised as at the end of this reporting period.

244. In relation to retransmission statutory licences, Foxtel and Screenrights entered into a new agreement in 2021 which will expire on 31 December 2024.

245. In 2022, Screenrights and Stellar Vision entered into a 5 year retransmission agreement for patient entertainment services.

246. A primary transparency factor in dealings with licensees is the availability of usage data, which forms a key part of licence negotiations. Screenrights provides all relevant usage data to the licensees. This is the same data that Screenrights uses for its distribution purposes.

247. Detailed usage data for each university is provided to UA annually as required under the Universities Agreement established in 2018/19, which was extended by variation in 2022 to December 2023. A new Remuneration Agreement for the period January 2024 to December 2027 has been negotiated and will be executed by December 2023. The usage data determines the amount of equitable remuneration payable and is provided by UA to all Universities for transparency.

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

248. In the Review Period, Screenrights distributed payments in accordance with its Distribution Policy and Constitution.

249. During the Review Period, a minor amendment was made to the Screenrights' Distribution Policy. The purpose of the amendment was to clarify that while expenses are generally allocated equally across all

licences, in extraordinary circumstances, a specific expense may be charged to a particular scheme. The amendment was approved by the Screenrights Board and members were notified of the amendment. Screenrights will continue to notify members of minor amendments and consult with Members regarding any substantive changes to the Distribution Policy.

250. With the exception of royalties in dispute, all undistributed royalties from the 2019 distribution year have been rolled over to the 2023 distribution year. Any royalties still in dispute from the 2019 year have moved into the Competing Claims Fund (CCF), which allows members an additional 12 months to resolve their competing claims to these royalties.
251. A copy of the Distribution Policy can be accessed from Screenrights' corporate website. Screenrights has published 'Plain English' guidelines on the Distribution Policy which set out how royalties are calculated in detail. These guidelines are also available on the corporate website.

Collecting Society Expenses (Code, Clause 2.5)

252. Screenrights' reports that its Board continues to approve the annual operating budget, and an updated financial report which compares actuals to budget is reviewed at each Board meeting.
253. Screenrights' expenses for the Review Period were approximately 14.91% (2022: 13.2%) of gross revenue, subject to audit review. The audited figure will be in Screenrights' Annual Report.
254. Screenrights' operating costs associated with its licensing schemes are met from revenue. In some cases, a fixed percentage is deducted, but otherwise the deductions are generally based on actual costs. Members receive itemised reports about deductions along with payments.

255. Detailed information on Screenrights' expenses including the expenditure to collections ratio for the year ended 30 June 2023 will be found in Screenrights' Annual Report, where a comparison with the year ended 30 June 2022 will be shown. This report will be made available by the end of October 2023.

Governance and Accountability (Code, Clause 2.6)

256. Screenrights reports that it has complied with the requirements of Clause 2.6 during the Review Period. Screenrights' Board has acted in accordance with the Constitution and Corporate Governance Statement in being accountable to members. The current directors on the Board are listed on the society's website.

257. The Audit, Risk & Governance Committee of the Board met six times during the Review Period. Its principal functions are to ensure that accounting records are maintained in accordance with statutory requirements, to ensure that financial controls are sufficient, to review the operational and strategic risk assessments, and to review the financial statements and consult with the external auditors.

258. Screenrights maintains complete financial records every year. Where requested by a member, Screenrights provides information about the member's entitlement to payment from Screenrights consistent with obligations under privacy law and any applicable duties of confidentiality.

259. Screenrights' Annual Report for 2023 became available in late October 2023, including the audited accounts as at 30 June 2023. Each Annual Report of Screenrights contains the matters set out in

clause 2.6(e) to (g) of the Code including revenue, expenses and distribution of payments to Members.

260. Annual Reports are published on the corporate website and presented to the members in preparation for the Annual General Meeting. A copy is provided to the relevant Minister and is tabled in Parliament.

Staff Training (Code, Clause 2.7)

261. Screenrights reports that it has taken reasonable steps, including through annual staff training, to ensure that employees and agents are aware of, and comply with, the Code. Amongst other things, Screenrights' Code training session familiarises staff with complaints handling procedures, Screenrights' alternative dispute resolution procedures for disputes between the Society and licensees, between Screenrights and members and between members and members.

262. A refresher training session on Privacy Law was delivered at the same time as Code training. The importance of compliance with the Code is also emphasised to staff in induction training. Further, any updates on Code requirements are communicated to staff on an ongoing basis and as required.

Education and Awareness (Code, Clause 2.8)

263. During the Review Period, Screenrights continued to provide information about its services and royalty distribution schemes, policies and procedures on its website, which is reviewed and updated regularly. Screenrights continued to provide animated explainer videos to support

the communication of this information. Screenrights' governance, financial and data information is also available on the corporate website

264. In addition, Screenrights made an 8-part webinar series available on-demand online, and this included information about Screenrights' services. The online series is offered at subsidised pricing in order to make it as accessible as possible.

265. Screenrights continued to promote its role and functions as a copyright collecting society by sponsoring and participating, either through speaking engagements, digital/online representation or providing attendees with communications material about Screenrights at the following events in the Review Period:

- Australian Directors' Guild (ADG) Awards, December 2022;
- Australian Writers Guild "AWGIES" Awards, November 2022
- Screen Production and Development Association (SPADA) Summit, November 2022;
- Screen Forever (run by Screen Producers Australia), May 2023;
- Australian International Documentary Conference, March 2023;
- Doc Edge Forum, June 2023;
- Asia Pacific Screen Forum, November 2022;
- The Regional to Global Screen Forum (run by Northern Rivers Screenworks), March/April 2023;
- Big Screen Symposium, July 2022; and
- Melbourne International Film Festival (MIFF) 37^o South Market, August 2022.

266. Screenrights also continued its Cultural Fund competitive grant program in 2022 and 2023. The Cultural Fund was established in 2018 to support innovative projects that foster the creation and appreciation of screen content in Australia and New Zealand. The Fund awards up

to \$50,000 per initiative. Screenrights promotes the Cultural Fund on the corporate website and through a dedicated marketing and communications campaign.

267. Screenrights has published plain English guidelines on how its undistributed funds are allocated in compliance with Clause 2.8(d) on the corporate website.

Reporting by Declared Collecting Societies (Code, Clause 2.9)

268. Screenrights' Annual Report provides the information required by clause 2.9(a) of the Code, including in an Annexure to that report.

Complaints and Disputes (Code, Clause 3)

269. This subject is dealt with in a separate section "COMPLAINTS AND DISPUTES" below.

Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)

270. Screenrights publicises the Code and its undertaking to be bound by it, by referring to that fact and making the Code available on Screenrights' corporate website for download by members and licensees and other interested stakeholders. It also communicates about the Code via its e-newsletters and news items that are linked from the homepage of the website.

271. In the Review Period, Screenrights also published its 2020/2021 Annual Compliance Report to the Code Reviewer, in addition to publishing past Code of Conduct Compliance Reports and Triennial Reviews of the Code of Conduct for members and licensees and other interested stakeholders,

together with the Notice for any interested party to make a submission to the Code Reviewer with respect to the Collecting Societies' compliance with the Code of Conduct.

272. Screenrights' corporate website also links to the new Code website, where a copy of the Code can be accessed centrally.

273. The Society includes a statement in its Annual Report (under "Governance") on its compliance with the Code.

274. Of course, Screenrights' annual report to the Code Compliance Reviewer is itself directed to its compliance with the Code.

Monitoring, Review and Amendments (Code, Clause 5)

275. In 2021-22, Screenrights initiated a multi-year digital transformation project to transition its proprietary systems for managing royalty claims to the cloud. This project continued during the Review Period, and an early iteration of the new platform was released in April 2023. The new systems will be released in stages and are expected to deliver a modern user experience, significantly increased performance capability and improved security.

276. Screenrights continues to utilise a third-party machine learning platform to leverage AI to improve data management practices. The use of AI in data processing pipelines means members will be notified sooner about their competing claims, payments will be made more frequently and with a reduced error rate

Phonographic Performance Company of Australia Ltd ("PPCA")

277. PPCA's report on its compliance with the Code was furnished to me on 2 August 2023.

278. PPCA's website is at <http://www.pcca.com.au>.

Legal Framework (Code, Clause 2.1)

279. PPCA states that during the Review Period, it met its obligations as set out in clause 2.1 of the Code, including, but not limited to, complying with its obligations under the *Corporations Act 2001* (Cth), the Australian Privacy Principles and *Privacy Act 1988* (Cth).

280. PPCA is governed by its Constitution which provides the framework for the governance of PPCA. The Constitution was not updated during the reporting period.

281. PPCA and its staff also adhere to several policies, including:

- Privacy Policy;
- Distribution Policy; and
- Complaints Handling and Dispute Resolution Policy; and
- a range of other policies covering such matters as equal opportunity, anti-discrimination, bullying, harassment and whistleblowing.

282. During the Review Period, PPCA's Privacy Policy was updated to more accurately described new ways PPCA collects, uses and discloses the personal information of the stakeholders it interacts with. This included

providing further detail on how PPCA may use personal information in connection with the Artist and Licensor Portal. Similarly, PPCA updated some of its privacy collection statements to reflect current practice.

283. Copies of the all external facing policies including the PPCA Constitution, are available from the PPCA website.

Members (Code, Clause 2.2)

284. PPCA claims that during the Review Period it met its obligations under clause 2.2.

285. PPCA is a limited liability company, with equal shares held by the remaining three founding record company members. These shareholder record company members do not receive, and are ineligible for, any dividend from PPCA Net Revenue, and can only receive remuneration on the same basis as all other non-shareholder licensors, via the annual distribution and in accordance with the Distribution Policy.

286. As a result, whereas other collecting societies represent the interests of “members”, PPCA represents the interests of “licensors” (ie the copyright owners or exclusive licensees in sound recordings for Australia). This includes multinational record companies, smaller record labels, rights management companies (including foreign-based collecting societies) and independent copyright owners such as individual artists themselves. Licensors register with PPCA through signing the Input Agreement. Through the Input Agreement, Licensors agree to allow PPCA to sub-license their sound recordings on a non-exclusive basis (meaning Licensors can continue to enter into direct licensing arrangements), and create blanket public performance licences and other licensing schemes used by users of sound recordings. Rather than the PPCA Constitution, it is the Input Agreement which sets out the terms of PPCA's relationship with Licensors.

287. Licensors sublicense their rights to PPCA on a non-exclusive basis, meaning they can continue direct licensing within Australia. As a requirement of registering with PPCA, all Licensors must have a direct licensing policy. PPCA has worked with and provided funding to the community legal centre Arts Law Centre of Australia, to facilitate the provision of free, independently created resources to PPCA Licensors to assist with the development of their own direct licensing policy, including a template policy which can be acquired free of charge from Arts Law.

288. PPCA has established an Artist Direct Distribution Scheme (**ADDS**), under which Australian artists who are featured on a sound recording can receive a direct payment from PPCA. ADDS is offered on an ex- gratia basis, and does not arise from any copyright within the sound recording held by the artist. Australian artists can participate in this scheme by applying to be a “Registered Artist” with PPCA.

289. As at the end of the Review Period on 30 June 2023, PPCA had approximately 3,830 licensors [2022: 3,563] and the number of registered artists was 5,353 [2022: 5,138].

Changes to Policies during the reporting period

290. PPCA reports that the Input Agreement was not updated during the reporting period.

Engagement

291. PPCA states that it engages with its Licensors and Registered Artists through a variety of means. Licensors and Registered Artists typically make queries or are contacted via phone or email, however a large amount of

information and forms are made available to parties through the PPCA website and PPCA Artist Portal.

Some of the channels for Licensor and Registered Artist engagement include:

- *Website* – via the PPCA website, online forms to register as a Licensor or Registered Artist⁴ are available, with PDF copies available on request. Relevant information, such as FAQs and links to relevant guides (including use of the (p) notice and the ARIA AMRA Labelling Code) is publicly available. PPCA also regularly publishes and updates a list Lost Licensors and Artists registered with PPCA who are no longer contactable.
- *PPCA Portal* – launched in early 2022, the Portal allows PPCA Registered Artists, Licensors and their authorised representatives (such as managers) to view their annual distribution statements and other financial documents, and update their contact and payment details. Since its launch, more than 2,650 Registered Artists and Licensors have signed up to the portal.
- *Meetings and Events* – PPCA engaged with Licensor and Registered Artists through members of the Distribution team attending conferences including Indie Con 2022 in August 2022, and face-to-face meetings with Licensors and Registered Artists throughout the reporting period.

Licensees (Code, Clause 2.3)

292. PPCA claims that during the Review Period it met its obligations under clause 2.3.

293. PPCA continues to offer broadcast, communication, and public performance licences for a range of services, including radio and television broadcast, non-interactive and semi-interactive music and video streaming services. The licences offered by PPCA include: PPCA offers broadcast, communication, and public performance licences for a range of services, including radio and television broadcast, non-interactive and semi-interactive music and video streaming services. The licences offered by PPCA include:

- radio broadcast licences and simulcast licences for commercial radio broadcasters;
- radio broadcast and optional simulcast licences for members of the Community Broadcasting;
- Association of Australia (CBAA) and non-CBAA member community radio stations;
- on demand licences for radio broadcasters;
- broadcast and communication licences for subscription television operators (including IPTV operators);
- communication licences for subscription video on demand (SVOD) services;
- television and radio broadcast licences, simulcast licences and on-demand communication;
- licences for ABC and SBS;
- broadcast, simulcast and other digital licensing for commercial television broadcasters;
- public performance licences for theatrical productions;
- communication for linear music streaming services (such as internet radio stations) and semi- interactive music streaming services;
- communication and broadcast licences for background music services that provide music; and
- services to commercial premises by means of broadcast or streaming.

294. As of 30 June 2023, PPCA directly licensed approximately 1,150, businesses, individuals, services and stations for the use of protected sound recordings and music videos. This does not include entities licensed via OneMusic Australia, the joint venture between APRA AMCOS and PPCA.

295. PPCA also provides licensing through a number of joint licensing agreements. They include:

- Eisteddfodau with ARIA and APRA AMCOS;
- Early learning providers with ARIA, APRA AMCOS and Copyright Agency;
- Funeral directors and associations with ARIA and APRA AMCOS;
- Tertiary education with ARIA and APRA AMCOS; and
- State education departments with ARIA and APRA AMCOS.

296. In addition, PPCA, continues to collaborate with APRA AMCOS on delivering more joint licensing schemes via OneMusic. As previously reported, since mid-2019, OneMusic has been responsible for the administration of PPCA public performance licences. Where previously businesses would have typically needed to acquire a licence from PPCA and a separate licence from APRA AMCOS, OneMusic offers a single blanket licence which covers both sets of rights, licensing the use of music by businesses.

297. PPCA maintains a page on its website explaining the role of OneMusic with contact details. As PPCA no longer handles licensing blanket public performance licences, the number of licensees directly licensed by and engaged with by PPCA is significantly lower than pre-2019. The day-to-day operations of OneMusic is administered by APRA AMCOS. For further information about OneMusic, one should go to APRA AMCOS's 2023 Code Compliance report.

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

298. PPCA states that during the Review Period it met its obligations under clause 2.4.
299. PPCA reports that it continues to issue a single annual distribution for the financial year ending 30 June on the following 31 December. Licensors and artists who have registered their details (including track titles and music video registration) before 31 August are eligible for that year's distribution. Following the annual distribution, Licensors and artists receive a distribution statement, detailing their earnings on a track-by-track (or video) basis.
300. The annual distribution is conducted in accordance with the Distribution Policy. A copy of the policy is available on PPCA's website and on request. During the Review Period, there were no changes to the Distribution Policy.
301. The Distribution Policy details how licence fees are allocated into distribution pools and paid to Licensors and Registered Artists. It explains the reporting sources PPCA uses to determine distributions, what expenses PPCA incurs (and how the net surplus is arrived at), and how PPCA treats funds it is unable to distribute (for example, where PPCA has lost contact with a Licensor). Plain English guides giving a simpler, summary explanation of the distribution process and a guide explaining how undistributed funds are handled are also available.
302. The Policy also explains the Artist Direct Distribution Scheme (ADDS), which was referred to at [288] above. ADDS is an ex-gratia scheme offered by PPCA under which Australian artists who have featured on sound recordings can register to receive payments directly from PPCA, regardless of whether they have retained copyright in the sound

recording. Like Licensors, artists must register their details before 31 August to be eligible for that year's distribution.

303. Questions about PPCA's distributions, title registration, payments and the Distribution Policy are answered by the Distribution team who are available via phone and email. Reminders to register all sound recording details so as to be eligible for the annual distribution are directly sent to Registered Artists and Licensors throughout the year, included in newsletters and published on the PPCA website.

Collecting Society Expenses (Code, Clause 2.5)

304. PPCA states that during the Review Period it met its obligations under clause 2.5.

305. PPCA deducts its expenses from the gross revenue (licensing fees collected by OneMusic Australia or PPCA directly). The net surplus is then distributed to international and local Australian Licensors, as well as artists registered under ADDS, pursuant to the Distribution Policy.

306. PPCA's Annual Report for the year ended 30 June 2022 (published during the Review Period) showed that the expense to revenue ratio was 16.1% [2022: 16.6%], a slight improvement from the previous financial year. Rising costs and subdued public performance revenue (continuing fallout from COVID-related lockdowns) have continued to contribute to the ratio.

307. The Annual Report is available from the PPCA website.

Governance and Accountability (Code, Clause 2.6)

308. PPCA claims that during the Review Period it met its obligations under clause 2.6.

The Board of Directors

309. PPCA's Board of Directors comprises of six directors: three are Levy Members directors (representing the three shareholding record companies), two are elected by non-shareholding Licensors, two are elected by PPCA Registered Artists, and a further director is appointed by the Board from the Management sector.

310. In line with the Constitution, elections are held each year in respect of the Licensor and Registered Artists positions. PPCA has two Board-appointed committees which meet on a regular basis – the Copyright Committee (which meets on a quarterly basis) and the Finance Committee (which meets on a monthly basis).

311. During the Review Period, PPCA again offered the position of "Board Observer", where a PPCA Licensor could attend and observe PPCA Board meetings in a structured training program administered by the Observership Program.

312. The Directors' Duties guideline was updated during the reporting period to clarify that all non-voting participants and observers to the Board were bound by the duties, and all directors were also expected to comply with PPCA's Code of Conduct and Whistleblower Policy.

PPCA Management

313. The PPCA Management Team continues to meet each week to discuss operational and strategic matters.
314. Individual teams meet frequently to discuss daily tasks and ongoing matters. During these meetings employees are made aware of any relevant changes to internal policies or their obligations to Licensors, Registered Artists and Licensees.
315. In addition, at each meeting of the PPCA Board, directors are reminded of their obligations and duties.
316. The PPCA Board, Committees and senior managers are also provided with a copy of PPCA's Competition and Consumer Compliance Guidelines.

Staff Training (Code, Clause 2.7)

317. PPCA states that during the Review Period it met its obligations under clause 2.7.
318. PPCA's practice of providing staff at the commencement of their employment with a set of essential internal policies as part of their orientation. This includes a copy of the Privacy Policy, Complaints Handling and Dispute Resolution Policy, the Whistle-blower Policy, and the Data Breach Response Plan. Staff are encouraged to frequently consult PPCA's intranet, where copies of all PPCA policies are stored, and are notified of significant changes to key policies.
319. The teams involved in licensing and distribution meet on a regular basis to discuss day-to-day tasks and ongoing matters. Staff are frequently reminded of their obligations to Licensors, Artists and licensees. Team managers are provided with copies of all complaints pertaining to their

respective departments. These complaints are examined and discussed during team meetings with the aim of improving customer service and internal processes.

320. In addition, PPCA staff receive periodic training regarding the Code. The training sessions explain the purpose of the Code, staff's obligations under the Code (especially when dealing with Licensors, Artists and licensees), and how complaints should be handled. Staff are also reminded of their obligations under the Privacy Policy and the Data Breach Response Plan during these sessions.

Education and Awareness (Code, Clause 2.8)

321. PPCA states that during the Review Period it met its obligations under clause 2.8.

322. PPCA states that it continues to engage with its Licensors, Registered Artists, licensees and members of the public to inform them about the Code, the role of PPCA, copyright and other relevant matters through a number of mediums.

PPCA Website

323. From the PPCA website, people can access information regarding the role and history of PPCA, copies of all policies and guides, and information on the licences that PPCA administer. For those seeking public performance licences (previously administered by PPCA) there are direct links and information about the formation and role of OneMusic. There are also several Frequently Asked Questions sections for Licensors, Artists, and licensing which provide information about copyright in music, the purpose of licensing, the role of PPCA (and its difference to APRA AMCOS), and answers around registration (as a Licensor, Registered Artist or recordings).

News and Society Media

324. In the News section PPCA regularly post updates on PPCA and other relevant matters, such as the awarding of grants, advocacy updates and changes in relevant legislation (such as sexual harassment laws).

Communication with Licensors and Registered Artists

325. PPCA regularly engages with its Licensors, Registered Artists and the general public through posting on its social media channels, averaging 2 to 3 posts a week on every channel. As of the time of writing this report, PPCA had 2,900 likes on Facebook, 320 followers on Instagram, 911 followers on LinkedIn and 1,917 followers on Twitter.

Grants and Supporting the Music Industry

326. PPCA increases public and industry awareness of its role through providing support, opportunity and recognition for Australian artists, often through partnerships with organisations within the music industry and creative sector. During the reporting period PPCA celebrated its 10 year partnership with the Australia Council for the Arts, awarding 10 grants of \$15,000 to Australian artists and groups to assist their development and create new recordings.

327. Additionally, PPCA administers the PPCA Performers' Trust Foundation, issuing grants to Australian artists to promote music and musical education, and also sponsored awards at the 2022 ARIA Awards (Best Independent Release) and 2022 AIR Awards (Best Breakthrough Artist) recognising the achievements of new and independent Australian recording artists.

328. PPCA is a member, or provides funding to, a number of organisations which promote and advocate for Australian music, including Sounds Australia, the Copyright Council and the Arts Law Centre of Australia. PPCA is a primary supporter of Support Act, Australia's only music-focused charity which provides counselling and financial to all participants in the Australian music industry.

329. PPCA also supports the Australian Independent Record Labels Association (AIR) and the Association of Artist Managers (AAM) Australia.

Complaints and Disputes (Code, Clause 3)

330. This subject is dealt with in a separate section, "COMPLAINTS AND DISPUTES", below.

Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4(a))

331. PPCA claims that during the Review Period it met its obligations under clause 4(a).

332. PPCA maintains a dedicated page on its website for the Code, with links to the Code text, previous PPCA compliance reports, the Code Reviewer's Report and the Copyright Collecting Society website. The link to this dedicated page is in the footer of every single page on the PPCA website. Staff are trained to answer questions about the Code, as well as direct Licensees, Registered Artists and licensees to the dedicated page for further information. A copy of the Code can be provided on request.

333. During the reporting period PPCA published the notice for the call for submissions to the report on its website as well as a news article to alert all visitors to the website about the upcoming annual review.

334. Of course, PPCA's annual report to the Code Compliance Reviewer is itself directed to the issue of its compliance with the Code.

Monitoring, Review and Amendments (Code, Clause 5)

335. PPCA states that during the Review Period it met its obligations under clause 5(c).

336. PPCA reports that it constantly reviews and updates its processes and systems to improve its efficiency and data handling. During the period PPCA continued to explore the potential broader use of monitoring services to obtain more data, and more accurate data, on the use of music in venues.

337. PPCA is also seeking, through the renegotiation of key broadcast agreements, additional information on recordings used by those licensees.

Australian Writers' Guild Authorship Collecting Society Ltd ("AWGACS")

General

338. AWGACS's report on its compliance with the Code was furnished to me on 28 July 2023.

339. AWGACS's website is at <https://www.awg.com.au/awgacs>.

340. AWGACS states that there have been no substantive changes to its practices since the last reporting period in 2022.

341. AWGACS is not a declared society under the Copyright Act.

342. AWGACS continues to be a member of the International Confederation of Societies of Authors and Composers (**CISAC**) and therefore submits to the international best practice Professional Rules for dramatic, literary and audio-visual guidelines. AWGACS is considered a “developing society” in CISAC terminology, determined by its number of its members, level of collections, age and infrastructure. AWGACS’s procedures continue to be subject to CISAC review and extensive reporting on an annual basis.

343. AWGACS confirms that it does not license the use of its members’ works and that it only collects and distributes secondary royalties.

Legal Framework (Code, Clause 2.1)

344. AWGACS reports that it has met all of its obligations with regard to its obligations under clause 2.1 of the Code and that there has been no change since the previous annual Compliance Report.

Members (Code, Clause 2.2)

345. The number of members of AWGACS at 30 June 2023 was 2,287 [2022: 2,156], an increase of 131 since the last report.

346. Membership remains open to all scriptwriters and there has been no changes in membership criteria or constitutional obligations to AWGACS’ members since the last report.

347. AWGACS’s constitution is available to all members and potential members upon request and on the AWGACS section of the Australian Writers’ Guild (**AWG**) website.

Licensees (Code, Clause 2.3)

348. Clause 2.3 of the Code does not apply to AWGACS because AWGACS is not a licensor of copyright material.

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

349. For the same reason, AWGACS does not recover licence fees for distribution.

350. AWGACS distributes to its members monies collected from partnered societies. This is in accordance with its Constitution and is governed by its Distribution Policy as determined by the Board.

351. The Distribution Policy is made available to AWGACS's members upon request and is also published on the AWGACS section of the AWG website.

352. In the financial year ended 30 June 2023, AWGACS collected \$2,426,889 [2022: \$1,504,791] for distribution in 2023 and distributed \$1,064,860 [2022: \$1,019,853] from prior year collections.

Collecting Society Expenses (Code, Clause 2.5)

353. AWGACS states that it deducts from each year's royalty collections, its operating costs for that year.

354. AWGACS also deducts 5% of gross royalties received as a "cultural levy" to be directed towards appropriate activities in support of its members. It sponsors the Annual AWGIE Awards for scriptwriters, which is run by the AWG.

355. In addition, AWGACS continues to invest, as resources permit, in pursuing new sources of royalties from new societies.

Governance and Accountability (Code, Clause 2.6)

356. The Board of Directors of AWGACS comprises five directors, of whom two are elected by the Board of the AWG (which itself is democratically elected by and from writers who are members of the AWG), two are elected by the AWGACS members from among the AWGACS membership, and one director is, ex-officio, the AWGACS/AWG Group CEO or AWG Executive Director.

357. During the Review Period, AWGACS has been audited and has presented the audited accounts to the members at an AGM, including:

- Total revenue during the period;
- Total amount and general nature of expenses;
- Allocation and distribution of payments to members.

358. AWGACS voluntarily submits to the extensive governance and accountability reporting measures and reviews of CISAC.

Staff Training (Code, Clause 2.7)

359. AWGACS reports that existing employees are aware of the Code and of its requirements and particularly of the Society's Complaints Handling Procedure.

Education and Awareness (Code, Clause 2.8)

360. As a small "developing" society, AWGACS focuses on the education of scriptwriters and relies on larger societies and the Australian Copyright

Council to contribute to the promotion of the importance of copyright and of making information about the roles and functions of collecting societies in general accessible to the general public.

361. Internationally, the Society's membership of CISAC is directed to accomplish the same purposes.

362. AWGACS seeks to increase awareness among its members and the scriptwriting community via sponsorship of the Annual AWGIE Awards.

363. In addition, AWGACS continues to promote awareness of scriptwriting royalties to its members and industry stakeholders via electronic bulletins and an accessible and regularly updated website.

364. Similarly, all of AWGACS's foundation documents are available to international collecting societies via the CISAC online portal, and domestically via the AWGACS website.

365. AWGACS continues to provide an advice service to members and to industry stakeholders on copyright and related issues.

366. AWGACS responds individually to all telephone and email enquiries from members, potential members and the general public about the society's purposes and practices.

Complaints and Disputes (Code, Clause 3)

367. The subject of complaints and disputes is dealt with in a separate section of this report, "COMPLAINTS AND DISPUTES", below.

Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)

368. The Code is posted on the AWGACS section of the AWG website and is made available to members and potential members upon request.

369. Of course, AWGACS's annual report to the Code Compliance Reviewer is itself directed to the issue of its compliance with the Code.

Monitoring, Review and Amendments (Code, Clause 5)

370. During the Review Period, AWGACS updated its policy and disclosure to members, following updated legal advice it had been provided.

371. Calls for submissions are made available on the website.

Australian Screen Directors Authorship Collecting Society Ltd (“ASDACS”)

General

372. ASDACS's report on its compliance with the Code was furnished to me on 31 July 2023.

373. ASDACS's website is at <https://asdacs.com.au>.

374. ASDACS was incorporated as a company limited by guarantee in 1995. ASDACS collects and distributes secondary royalty income for audio-visual directors, which arise from the screening of their work both internationally and domestically.

Legal Framework (Code, Clause 2.1)

375. During the Review Period, ASDACS undertook a review of its Articles of Association and Memorandum (written in 1995) with the aim to update its constitution in line with modern governance standards. Changes were circulated to the ASDACS' membership and approved at the ASDACS Annual General Meeting in November 2022.

376. ASDACS' Privacy Policy, Annual Accounts, and Constitution are available on the ASDACS website.

377. ASDACS consists of three staff members and one casual staff member. The staff list is available on the ASDACS website.

378. As has been previously noted, ASDACS is not a declared collecting society under the Copyright Act and is therefore not required to comply with the Attorney General's Guidelines for Declared Collecting Societies. Nevertheless, ASDACS's constitutional rules are largely modelled on these guidelines.

Members (Code, Clause 2.2)

379. By the end of the Review Period, the membership had grown to 1,487 [2022: 1,428], an increase of 4%. 1,149 members were Australian, 214 New Zealander and 124 were international residents for tax purposes.

380. In addition to its Constitution, the ASDACS website features a FAQ section with information sheets aimed to provide members with easy access to information and resources.

381. All staff are trained to respond to members' queries and complaints in accordance with its complaints policy also available on its website.

Licensees (Code, Clause 2.3)

382. ASDACS does not grant licences to use copyright works.

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

383. ASDACS does not collect licence revenue, but instead collects royalties generated from secondary rights. Secondary royalty income for the 2022-2023 financial year period totalled \$1,583,152 [2022: \$1,668,069].

384. A total of \$61,980 bank interest [2022: \$2,431] earned on ASDACS income over the 2023 financial year will be distributed evenly to its members in accordance with its constitutional rules. The striking disparity between the bank interest for 2022 (\$2,431) and 2023 (\$61,980) prompted me to seek from ASDACS confirmation that the figures were correct and, if so, an explanation of the discrepancy. The Executive Director of ASDACS confirmed that they are correct and advised that the disparity is mainly due to extreme fluctuation in the interest rate paid by the bank (a trough in 2021-2022, and a crest in 2022-2023) and withdrawals that are made from time to time to make distributions and to cover administrative expenses.

385. ASDACS distributes domestic and international income collected the prior financial year to members on an annual basis. During the Review Period, \$1,121,801 [2022: \$1,375,021] of secondary royalties collected in the 2021-2022 year were distributed to the members.

386. In addition, due to the transition from a calendar year to an Australian financial year, ASDACS made a special one off distribution of income received over an 18mth period (1 January 2021 – July 2022) instead of the usual 12 month period. The members were notified and the distribution commenced in November 2022.

387. In accordance with ASDACS' constitutional rules, after four years, undistributed funds are transferred into a development fund and put toward the benefit of the members. During the year, expired distributions of \$77,873 [2022: \$46,959] were allocated to the development fund. Of these funds \$4,292 was used on database development and \$15,624 was spent on an IT Upgrade.

388. As reported previously, the ASDACS distribution rules and practices were updated in June 2019 to include requirements as per the Code of Conduct changes introduced 1 July 2019. In particular, the guideline maintains that the membership will be consulted prior to making any substantive changes to its distribution rules and practices and affirms that a detailed report on undistributed funds will be made available to its members. A plain English distribution rules and practices guideline is also available on the ASDACS website.

Collecting Society Expenses (Code, Clause 2.5)

389. ASDACS's members received the full amount of gross royalties that ASDACS received from reciprocal collecting societies internationally for their works, less the following amounts:

- **Administrative fee:** administrative fee of 20 per cent, which covers ASDACS' operational expenses;
- **Membership fee:** membership fee of 10 per cent, waived for members of the Australian Directors' Guild (ADG), the Directors and Editors Guild of New Zealand (DEGNZ), beneficiaries and retirees; and
- **Cultural and Charitable Purposes Fund:** cultural and charitable purposes fund fee of 4 per cent. In 2022 – 2023, \$62,835 was transferred to the fund. \$50,000 was granted to the Australian

Directors Guild (ADG) for the ADG Awards, as well as the ADG National Industry Development Program and \$10,000 was granted to the Directors and Editors Guild of New Zealand (DEGNZ) for an educational campaign on directors rights and remuneration.

Governance and Accountability (Code, Clause 2.6)

390. At its Annual General Meeting, seven members were appointed to the ASDACS Board in accordance with its constitutional rules. The list of the board members appointed is available on the ASDACS website.

391. As mentioned previously, the 2022-2023 audited ASDACS Annual Accounts will be made available on the ASDACS website and include details on collections, administration expenses, distributed funds and undistributed funds.

392. As previously reported, ASDACS continues to be a member of **CISAC** and abides by CISAC professional rules and standards, including the submission of an annual finance declaration and completion of a professional rules questionnaire and Asia-Pacific Committee Territory/Society Reports.

Staff Training (Code, Clause 2.7)

393. During the Review Period, all staff were made aware of the Code and were given further training on ASDACS's complaints handling procedure, as outlined in the ASDACS complaints policy.

Education and Awareness (Code, Clause 2.8)

394. The ASDACS website continues to promote the importance of copyright and makes detailed reference to the nature of copyright as administered by societies in Australia and overseas, addressing the functions and policies of ASDACS in particular.
395. ASDACS continued to send to its members a quarterly e-news and used social media (Twitter, Facebook and LinkedIn) to keep members informed and aware of its work and progress.
396. ASDACS continues to promote fair remuneration for screen directors. This is in alignment with the broader international Writers and Directors Worldwide 'Audio-visual campaign', which is aimed at gaining an unassignable and un-waivable right to remuneration for audio-visual authors across the globe.
397. ASDACS continues to be a member of the Asia-Pacific Audio-visual Alliance for Writers and Directors, aimed as a platform for audio - visual creators to share, connect and communicate, advocate for stronger copyright protections and further their interests in Asia-Pacific.
398. Plain English distribution rules and practices guidelines, as well as information sheets on retransmission rights, undistributed funds and distribution practices are available to members on the ASDACS website.
399. ASDACS also makes its documents available on the Code of Conduct for Copyright Collecting Societies website introduced as from 1 July 2019.

Reporting by Declared Collecting Societies (Code, Clause 3)

400. As previously noted, ASDACS is not a declared Collecting Society under the Act.

Complaints and Disputes (Code, Clause 3)

401. This subject is dealt with in a separate section, "COMPLAINTS AND DISPUTES", below.

Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)

402. ASDACS publicises the Code and its adherence to it on its website and in all relevant information documents provided to members and potential members.

403. The Code is posted on the ASDACS website where those interested can also find:

- the Code Reviewer's latest Report on Compliance with the Code;
- the Code Reviewer's Triennial Review of the Operation of the Code; and
- the 2023 Call for Submissions.

404. Of course, ASDACS's annual report to the Code Compliance Reviewer is itself directed to the issue of its compliance with the Code.

Monitoring, Review and Amendments (Code, Clause 5)

405. As previously reported, in order to improve the capture and exploitation of data to achieve better business practices, ASDACS has upgraded its

database to allow the transfer of its repertoire of members works to the International Documentation on Audio-visual Works (**IDA**) database: <https://www.ida-net.org>. IDA is a non-profit international audio-visual rights management system, owned by CISAC, that Authors Societies consult to get accurate information on audio-visual works and rights owners. ASDACS continues to update and add new works to IDA on a regular basis.

C. COMPLAINTS AND DISPUTES AS REPORTED BY THE COLLECTING SOCIETIES

Australasian Performing Right Association Limited (“APRA”) and Australasian Mechanical Copyright Owners Society Limited (“AMCOS”)

General

406. The APRA AMCOS Complaints Policy and Procedure can be read at <https://www.apraamcos.com.au/about/governance-policy/policies-procedures/complaints-procedure>.

407. APRA AMCOS reported on three member complaints and eight licensee complaints dealt with during the Review Period.

408. APRA AMCOS has designated them CM01 – CM03 and CL01 – CL08 respectively. “CM” indicates a complaint by a Member, while “CL” indicates a complaint by a Licensee or prospective Licensee.

Complaints by Members

APRA AMCOS Complaint 1 – CM01

409. CM01 complained about the lack of response from APRA AMCOS to his enquiry as to when royalties would be paid to him. He was told that they would be paid in the August 2022 distribution but when that did not happen, he lodged a query with APRA AMCOS in August 2022. Receipt was acknowledged but nothing further happened until CM01 made his present complaint in November 2022.
410. The email chain dealing with the complaint extended from 17 November 2022 to 30 November 2022 – a short period.
411. APRA AMCOS ascertained that a technical error caused the royalties to be omitted from the August 2022 distribution. The societies say that the error was corrected and that future royalties for broadcasts of the complainants work will be correctly identified and flow to the complainant via standard royalty distributions.
412. APRA AMCOS apologised to CM01 for the delay in resolving the issue, explained the error, confirming that it had been rectified, and advising that the unpaid royalties from the August 2022 distribution would be paid in the next royalty distribution in February 2023.
413. APRA AMCOS advises that the royalties in question were paid in the February 2023 distribution and that the societies regard the complaint as resolved as they did not hear anything further from the complainant.
414. In his letter of complaint dated 17 November 2022, CM01 began by saying that he respected the work that APRA does and has had mostly excellent experience and service over the preceding 32 years. But he said that in relation to the non-payment of royalties, he has the perception of being “fobbed off” as he is “generally not a squeaky wheel”.

415. He referred to his exchanges with officers of APRA AMCOS as having been “cordial” and states that he was assured he would be paid what was owed to him. He said that it was with regret that he felt that he needed to write to the complaints section of APRA.
416. After exchanges of emails, on 30 November 2022, the Screen Lead at APRA wrote to CM01 advising that a “deep dive” into the broadcast run pertaining to the work in question had identified a total of \$53.55 for those broadcasts, which would be paid to the complainant in the first distribution for 2023, in February 2023. He stated that analysis showed that the payment should have been made as part of the August 2022 distribution, but that the omission was not picked up “due to an isolated system incident”. The officer assured the complainant that “the works have correctly been matched so that any future broadcasts of the program will be automatically identified”.

Code Compliance Reviewer's comments (if, and to the extent, called for)

417. In my opinion, although the amount in question is small, in a case such as this where it is plain that an amount was paid six months later than it should have been, APRA AMCOS should consider paying to the complainant interest on the \$53.55 from August 2022 to the date of payment.

APRA AMCOS Complaint 2 – CM02

418. CM02 complained over a lack of response from APRA AMCOS to queries he made regarding a membership application he lodged in November 2021. He made a separate complaint concerning the “online mini” licence offered by APRA AMCOS.

419. His complaint was made on 30 May 2023. APRA AMCOS's Director, Writer Services replied on 6 June 2023 apologising for administrative oversights, a lack of communication and delay in progress on the application for membership, and, separately, while advising that while APRA AMCOS had no record of an enquiry from the complainant regarding the "online mini" licence, if he were to make that enquiry, a response would be provided as a priority.

420. APRA AMCOS report that the membership application is now finalised and that the societies have not received any further enquiry in regard to the "online mini" licence. Accordingly, APRA AMCOS consider the complaint resolved. The response on 6 June 2023 to the complaint was written by the Director, Writer Services, and was appropriately informative. The email apologised and assured CM02 that APRA AMCOS was in the process of implementing a new procedure for processing applications which would reduce the risk of applications being missed from being processed in the future.

APRA AMCOS Complaint 3 – CM03

421. CM03 was a musician member whose complaint related to what he perceived to be the low value of his APRA royalty distributions for certain periods in 2020 and 2021, in circumstances in which he received substantially higher royalties from PPCA for the same periods.

422. In issue was a musical work and a sound recording of that musical work, which featured in broadcasts of a television advertisement.

423. The complaint was dealt with in correspondence over the period 6 February 2023 to 27 June 2023.

424. APRA AMCOS concluded that the complaint was “in progress and unresolved” at the end of that period. In the period mentioned, there were 15 emails passing as between APRA AMCOS and the complainant.
425. By way of summary, APRA AMCOS reported that the correspondence dealt with various issues including the difference in distribution practices between APRA and PPCA, supplying particulars of the APRA royalties in question, and clarification of whether issues concerned with “matching” or “registration” may have had an impact on the royalty calculations.
426. The complainant remains unconvinced that he has been provided with a satisfactory explanation about the calculation of his royalties. APRA AMCOS says that it is presently re-reviewing in detail its data on the periods in question and will liaise with the complainant on the outcome.
427. I will not summarise all of the emails.
428. In his email of complaint, the member asserted that in 2020 his tune was added to a TV ad, in respect of which he owns “100% writer and copyright/master recordings”. In that year, 2020, he received royalties of \$16,000 from PPCA and in 2021 \$3,000 (“\$16,000 in total” – sic \$19,000?). However, he received no royalties from APRA for the ad, despite his having registered the tune with APRA in 2020.
429. He raised the matter with “Writer Services” in APRA and ultimately “squeezed out” royalty payments of \$2,000. The complainant states that while he appreciates that royalties are viewed differently as between PPCA and APRA, first, APRA royalties are normally higher than PPCA's, and second, even if not, the difference of \$14,000 between \$16,000 and \$2,000 calls for explanation.
430. The member's email of complaint requested APRA to revisit the issue, as the TV ad “was renewed last year (October 2022)” and he wants to ensure that he is being paid correctly by APRA.

431. By an email dated 2 March 2023, APRA gave a detailed comparison of the methodologies used by it and PPCA respectively for the calculation of distributions. APRA's letter concluded: "... it is impossible to make a direct comparison between a distribution made by APRA for payment on a work, against a payment made by PPCA for a recording of that work".
432. CM03 replied: "I'd like to say that I feel assured that I will be paid properly by APRA (on this issue) but sadly I'm not, which is why I have the Musicians Union lawyers on standby". He made the point that his industry colleagues, being producers, synch companies, composers, lawyers, musicians' union with all their experience say that their own APRA payments were much higher than their PPCA cheques.
433. On 23 May 2023, a newly appointed Director of Writer Services at APRA wrote to the complainant setting out details of the usage of the work in question as reflected in the May distribution. This included the fourth quarter of 2022 (October, November, December 2022). The grand total amount was \$648.96.
434. On 26 June 2023, the complainant copied into an email of that date his original email of complaint and asserted that he had not received an answer to two aspects.
435. Promptly on 27 June 2023, APRA replied advising that it was "reviewing a couple of points" and would come back to him as soon as possible. The Director, Writer Services also suggested a discussion on the telephone as well as promising a follow up email.
436. I agree with APRA AMCOS that the complaint should be regarded as ongoing rather than resolved.
437. In an email dated 3 June 2023, the complainant said that he was "still getting [his] head around all the information" that had been provided

and that he would wait and see what the PPCA amount would be in December in order to “have some perspective”.

Complaints by Licensees or Prospective/Potential Licensees

APRA AMCOS Complaint 4 – CLO1

438. Complainant CL01 complained upon receiving correspondence from OneMusic Australia indicating that he was required to obtain a licence, in circumstances in which his business already had one and was up to date with its payments. According to the APRA AMCOS report to me, the complaint was made on 4 July 2022 and resolved on 5 July 2022 when it was appreciated that the correspondence had been sent to CL01 in error.

439. The OneMusic mailout dated 4 July 2022 was in a standard form. CL01 responded at 5:25 pm on the same day expressing resentment at the tone of the OneMusic email and the suggestion that his business lacked a licence.

440. OneMusic acknowledged receipt of the complaint at 6:31 pm on the same day.

441. An email apologising was sent at 9:54 am the following morning by OneMusic's Accounts Manager.

442. CL01 responded at 10:18 am thanking the Accounts Manager for the apology but suggesting that “before your organisation sends out threatening emails you should really be 100% certain of your facts”.

Code Compliance Reviewer's comments (if, and to the extent, called for)

443. OneMusic Australia is to be commended on the promptness with which it addressed the complaint, but, of course, this shows also that the error was clear and obvious as distinct from one that could only come to light after some effort.

APRA AMCOS Complaint 5 – CL02

444. APRA AMCOS reports that this complaint was made on 27 July 2022 and resolved on 16 August 2022. The complaint was directed to OneMusic Australia. There were several limbs to the complaint including that CL02 felt harassed by approaches from OneMusic asserting the necessity of his applying for a licence for his business; inadequate provision of information which caused him to be confused and frustrated; and other matters.

445. The complainant described himself in his email of complaint as manager of the subject gym.

446. The letter of complaint described OneMusic's "customer service" as "deplorable". Part of CL02's grievance was that he had been led to believe that OneMusic was just another supplier of music and it was not made clear to him that OneMusic was a "governing body". The complaint was not directed only at OneMusic: it was also directed to the music supplier and the head office of the gym chain.

447. The email dated 16 August 2022 from OneMusic's Head of Music Licensing & Operations was detailed and informative. It pointed out the necessity of a licence for public performance in a business setting, and that, generally speaking, it is the business owner who has the legal responsibility to obtain a licence from copyright owners. The email from OneMusic included an apology for any confusion that CL02 had experienced in understanding the information previously supplied by OneMusic. The email also pointed out that the HEAD office of the particular chain of gyms had not agreed to take responsibility for the public performance of music at the premises

of franchisees, and that the particular music supplier did not “cover fitness centres”.

448. Finally, the OneMusic email noted that since the email of complaint dated 27 July 2022, OneMusic had received an application for a licence from another person associated with the business.

449. On the same day, 16 August 2022, CL02 responded expressing appreciation for the “due diligence” conducted by the Head of Music Licensing & Operations, but expressed disappointment that OneMusic was seeking to recover licence fees in respect of past periods. The complainant said that he believed it was unfair that “we are required to back date our fees” in view of the fact that OneMusic had “let things go for three years”. CL02 said that he would leave that question to another representative of the business.

450. One last matter should be mentioned. The email from OneMusic dated 16 August 2022 informed the complainant that:

- OneMusic was reviewing the material contained in its correspondence with new customers to ensure that it clearly differentiated between OneMusic’s role and that of background music suppliers;
- OneMusic was conducting training sessions for relevant staff on the same issue; and
- OneMusic would work with background music suppliers and franchisors to provide necessary education and training on music licensing requirements.

APRA AMCOS Complaint 6 – CL03

451. According to the APRA AMCOS report, this complaint was made on 14 November 2022 and resolved on 21 November 2022.

452. The complaint related to the APRA AMCOS Dramatic Context Licence. The complainant obtained such a licence in June 2022 for the use of musical works in a theatrical production in October 2022.
453. CL03 understood that the music could only be used if the licence was issued prior to the performance. As the complainant did not receive an invoice prior to the commencement of the theatrical production, the assumption was that there was no right to use the musical works and so the theatrical production went ahead without the use of the works.
454. Apparently APRA AMCOS's practice is to issue invoices for Dramatic Context Licences after the performance. This is what happened in the present case but of course the music had not been used.
455. CL03 understandably complained about being invoiced in those circumstances. In addition, there was a complaint that APRA AMCOS sent a rude email in response to the complaint when it was made.
456. APRA AMCOS wrote to the complainant expressing regret over the "miscommunication" as to the point at which there was permission to use the works. APRA AMCOS confirmed to CL03 that in the future, licensed works could be used prior to receipt of an invoice, and that the licence obtained and associated invoice for it had been cancelled.
457. APRA AMCOS confirmed that the invoice issued had been issued in error and should be disregarded. APRA AMCOS apologised for the error.
458. Finally, APRA AMCOS understood that the "rude" communication referred to by the complainant was an email sent by an APRA AMCOS staff member at 9:10 pm on 14 November 2022.

459. APRA AMCOS reports that it did not intend the response to be discourteous, but in any event expressed regret and tendered an apology to the complainant.

460. An email dated 21 November 2022 from the APRA AMCOS Manager – Licensing & Operations to CL03 stated:

“For future productions, please be assured that you can use the licensed works as soon as you have signed the licence agreement and don't need to wait until receiving an invoice and paying a fee (these will usually be issued after the production has concluded). We will review our licensing correspondence with a view to remedying anything that may cause confusion in that regard”.

461. The concluding email in the chain was one from CL03 expressing thanks and stating “very much appreciated”.

Code Compliance Reviewer's comments (if, and to the extent, called for)

462. I agree with the complainant that the reference to an “upfront” fee suggested that payment must be made before the performance takes place. It is understandable, therefore, that, not having received an invoice, CL03 believed that it would not be lawful to use the music. APRA AMCOS would be well advised, as it foreshadowed it would do, to revise what it says about obtaining a Dramatic Context Licence.

APRA AMCOS Complaint 7 – CL04

463. According to APRA AMCOS's report, the complaint by CL04 was made on 22 December 2022 and resolved on 24 January 2023.

464. In fact there were two complaints: one concerning licence fees and the other concerning an unauthorised photograph.

465. In the email of complaint dated 22 December 2022, CL04 referred to the fact that after COVID-19 it had taken quite some time for her business to get back to playing music 4 days a week, yet it was being charged for 7

days. In addition, she said that her business no longer included a particular bar, and she requested that any monies outstanding in respect of that bar be reduced to nil.

466. A Credit Officer at OneMusic replied on 21 December 2022 advising that an “adjustment credit” was applied to the account in the light of closure during COVID-19. The Credit Officer invited the complainant to put the “dispute” in writing and email it to the “Resolution Team” at OneMusic.

467. On 23 January 2023, the Director, OneMusic Australia wrote to the complainant stating that on the basis of her advice with respect to the prolonged adverse trading conditions at the particular bar in the lead up to its closure in July 2022, as a “gesture of good faith” OneMusic had decided to waive the \$598.71 in fees payable for the bar for the period 1 December 2021 to 18 July 2022. Accordingly, the invoice was withdrawn and the complainant was told that she did not need to take any further action.

468. In relation to the unauthorised photograph, what happened was that CL04 had volunteered to participate in a music monitoring system “so as to determine a more fair and balanced payment system in line with the days we are trading and playing music”. Following installation of the music recording device, it transpired that the company which installed the unit had taken photographs of the “back of house operation, including ... security screens” without CL04’s consent.

469. OneMusic Australia raised the matter with the contractor which confirmed that the photograph in question had been deleted and the device had been retrieved from the bar in question. As well, the contractor had spoken with people at the bar regarding the issue.

470. OneMusic expressed regret over the adverse experience CL04 had had with the installer and apologised. On 24 January 2023, CL04 replied expressing thanks and appreciation.

Code Compliance Reviewer's comments (if, and to the extent, called for)

471. The complaint was well handled and APRA AMCOS was entitled to regard it as resolved on 24 January 2023.

APRA AMCOS Complaint 8 – CL05

472. APRA AMCOS reports the complaint as having been made on 5 February 2023 and resolved on 28 February 2023. CL05 complained about being charged ongoing licence fees in circumstances in which the relevant licence had been cancelled.

473. In the email of complaint dated 5 February 2023, CL05 stated that in January 2022, her business declared that it did not play any music for the benefit of its clients or staff, and OneMusic Australia had confirmed that “the matter had been closed off”.

474. Then in November 2022, CL05 received a letter from lawyers asserting that her office had ignored repeated requests to finalise its indebtedness to OneMusic. Between January 2022 and November 2022, the complainant did not receive any requests from OneMusic, but “to make this matter go away, in good faith, [she] paid the outstanding invoice”.

475. Notwithstanding this, she had now received a further invoice, of which she supplied a copy under cover of her email of complaint.

476. Following investigation of the matter, the Director of OneMusic wrote to CL05 on 20 February 2023 apologising and explaining that in fact both invoices had been issued in error. The Director confirmed that the account

in both invoices had been cancelled and that no fees remained payable on the account.

477. He undertook that OneMusic would refund the payment of \$225.97 that had been paid for the earlier invoice.

APRA AMCOS Complaint 9 – CL06

478. APRA AMCOS reports that this complaint was made on 3 March 2023 and resolved on 20 March 2023.

479. This was another complaint about OneMusic's having persisted in seeking recovery of licence fees in respect of periods after the relevant licence was terminated. The complaint is to be understood against the background that ordinarily when a licence is terminated part way through a licence year, OneMusic pro rates any balance outstanding for that full licence year to the date of cancellation.

480. In the present case, investigation showed that at the time of termination of the licence, the pro rated fee was misallocated to an invoice in respect of a period occurring after, rather than before the termination date. The resulting invoice displayed the correct pro rated fee amount, but an incorrect licence period.

481. OneMusic remedied the fee misallocation and discontinued the matter with its external mercantile agent.

482. OneMusic provided a written response to the complainant apologising for the error and explaining how it came about. There was no response from the complainant and OneMusic treated the matter as resolved.

483. In its report to me, OneMusic acknowledged "the recurrence of issues relating to invoices" and says that it has made a commitment "to the development and implementation of an improved invoicing system over

the course of the 2023-24 reporting period” and that in the meanwhile, relevant staff members have been made aware of the problem with a view to ensuring that issues of this kind are minimised and, where possible, avoided.

484. The email of complaint dated 3 March 2023 noted that the invoice in question was for the four-month period 30 November 2021 to 30 March 2022, but that the business had been sold on 25 October 2021 which had been pointed out to members of the legal team over the preceding year.

485. A substantive response by OneMusic dated 20 March 2023 noted that it had been advised in May 2022 that the business had changed hands some months earlier on 15 October 2021, and that OneMusic had cancelled the licence effective from that date and pro rated fees to that date.

486. The email explained that the pro rated fees amounted to \$228.68 but that due to an administrative error, that amount had been incorrectly allocated to an invoice for a period after the termination date. That is why CL06 had received automated payment demands for a licensing period after the sale of the business.

487. OneMusic regretted and apologised for the error. Moreover, as a gesture of good faith, OneMusic had opted to waive the balance payable on the complainant’s account, as well, of course, as discontinuing the matter with the external commercial agents.

APRA AMCOS Complaint 10 – CL07

488. APRA AMCOS reports that this complaint was made on 9 June 2023 and resolved on 7 July 2023.

489. CL07 complained that her organisation had been referred to OneMusic’s external mercantile agent in respect of fees relating to a period after the

licence had been cancelled. CL07 complained that OneMusic had been “extorting” her community organisation for “further financial gain” and that it had not, in the three years until 30 March 2023, contacted her regarding the licensing arrangement.

490. OneMusic reports to me that it had no record of its or its mercantile agent's having received a request for termination of the licence. On that basis, the complainant's account was duly active.
491. Moreover, OneMusic reports that its records indicate that her organisation and OneMusic were in fact in contact in late 2020 and early 2021 about the organisation's licensing arrangements.
492. OneMusic wrote to CL07 advising that while it had no record of receipt of a termination request, OneMusic acknowledged a request for termination in the complaint made on 9 June 2023.
493. OneMusic repudiated the allegation of extortion. It gave CL07 an opportunity within a seven-day period to withdraw the termination request and remain licensed (it noted that the complainant's organisation had held a licence from APRA AMCOS for over 60 years and continued to promote events likely to feature music in OneMusic's repertoire).
494. As OneMusic received no response, it treated the licence as terminated, and a “fee waiver” was carried out seven days after OneMusic sent its email.
495. The email dated 29 June 2023 from the Senior Licensing Manager at OneMusic gave a detailed explanation and account. It explained that for lack of any licence termination request, OneMusic had been pursuing the complainant in respect of the invoice issued for the 2022-23 licence year (1 September 2022 to 31 August 2023). Notwithstanding this, the email

acknowledged that the cancellation request made on 9 June 2023 should be acted upon.

496. The email pointed out that a result of the licence cancellation would be that the organisation would not be licensed for any performance of music controlled by OneMusic from the date of the termination. It was for this reason that it might be in the interests of the organisation to retain the *OneMusic Community Halls Licence*.

APRA AMCOS Complaint 11 – CL08

497. APRA AMCOS reports that this complaint was made on 28 March 2023 and resolved on 30 March 2023.

498. It is yet another complaint that OneMusic had been seeking payment of licence fees in circumstances where the licence was no longer on foot.

499. The email dated 30 March 2023 from OneMusic's Senior Licensing Manager apologised and explained that an administrative error had occurred. CL08's account had remained active when it should not have, and the billing system remained active in consequence. The Senior Licensing Manager advised CL08 that the account and all invoices had been cancelled with no fees remaining payable.

Copyright Agency Limited (“Copyright Agency”)

Particular Complaints

Copyright Agency Complaint 1 – CA1

500. CA1 was a commercial producer of educational materials for use in primary schools.

501. On 31 May 2023, CA1 complained that previously promised more accurate reporting of member entitlements had not eventuated. CA1 sought an update and an assurance that more accurate reporting of member entitlements would be in place for the 2024 royalty payments. It also complained that notwithstanding considerable growth in its business in recent years, this has not been reflected in the royalty payments received from Copyright Agency.
502. Copyright Agency replied on 19 June 2023 noting that the payments from the 2023 distribution of licence fees from the schools sector was imminent, and it provided to CA1 an Information Sheet on that distribution.
503. The Information Sheet noted that in 2022, Copyright Agency had reached an agreement with the Copyright Advisory Group (CAG) for the school sector for the three-year period from 1 January 2023 to 31 December 2025, with an option to renew for a further year. The agreement had set a flat rate of \$13 per student each year. The Information Sheet noted that surveys in schools ceased in March 2020 due to the pandemic.
504. The Information Sheet noted that CAG and Copyright Agency had agreed in 2017 to work together from 2018 on new methods of data collection, which use modern technologies which, among other things, would reduce teacher burden. Under the agreement, if new methods were not finalised by September 2020, either party could apply to the Copyright Tribunal for assistance. The Information Sheet noted that Copyright Agency had in fact applied to the Tribunal on 18 May 2021 and that "the parties [were] continuing to work with the Tribunal to get new methods of data collection in place". That proceeding before the Tribunal is *Copyright Agency Ltd v Department of Education (Queensland) and others* CT 2 of 2021.
505. Finally, the Information Sheet noted that the data base for the 2023 distribution would include survey data from schools from 2016 to March 2020. The Information Sheet also noted that the total funds for distribution

was \$42.79 million and that the licence fees invoiced for January to December 2023 was \$52.28 million out of which \$9.10 million (17.4%) went to administration and \$0.78 million (1.5%) went to the Cultural Fund.

506. Of the net amount of \$42.79 million, 89% or \$38.08 million was to be distributed to publishers and writers/illustrators.
507. Copyright Agency's covering email explained that the "pool for distribution" for 2023 was slightly smaller than for 2022. The email added that there were around 4,700 recipients of distribution payments, including CA1, which would receive around \$154,000.
508. Copyright Agency's email explained that an increase in sales does not, of itself, necessarily mean that there has been an increase in copying under the education statutory licence, but that if CA1 had evidence that copying of its titles under that licence had significantly increased in comparison to the copying of other titles, CA1 should let Copyright Agency know. Copyright Agency's email added that the proceedings in the Tribunal regarding future data collection from the schools sector, via school authorities, were ongoing, and that in the meantime, Copyright Agency was getting data for distribution directly from teachers via annual online questionnaires.
509. CA1 responded on 20 June 2023 pointing out that Copyright Agency's email did not deal with CA1's request for an assurance that the new system would be up and running for the 2024 royalty distribution. CA1's email noted that CA1 had paid over \$400,000 in fees to Copyright Agency and felt that its concerns had not been heard over recent years and that it had been unfairly disadvantaged by decisions made by Copyright Agency's Board. CA1's email concluded by expressing the hope that 2024 would be the first year in recent times when Copyright Agency would "do the right thing by members and ensure accurate payments are distributed to members based on accurate data". CA1 accepted that there was not necessarily a direct correlation between

sales and copying, but asserted that there had been such a relationship in the past.

510. At Copyright Agency's suggestion, on 18 July 2023, there was an online meeting between representatives of Copyright Agency and CA1.

511. Copyright Agency has reported to me that in the online meeting on 18 July Copyright Agency explained that the collection of survey data similar to that which was collected prior to the pandemic was dependent upon the cooperation of school authorities, that Copyright Agency was seeking to get new arrangements in place with the assistance of the Copyright Tribunal, and that Copyright Agency was collecting data from alternative sources (principally online questionnaires for teachers on books and digital products copied in the previous 12 months). Copyright Agency also explained that a key factor in developing new data collection methods, was the minimisation of teacher burden, and that Copyright Agency and school authorities were unwilling to return to the pre-pandemic survey mechanisms, given the administrative burden of manual, paper-based collection of data.

512. On 29 July 2023, Copyright Agency wrote to CA1 giving a fairly detailed summary of what had been discussed at the online meeting and providing further information. This included:

- information about the extent of copying of CA1's works over the period from 2014 to 2019, and data collected via online questionnaires completed by teachers in respect of subsequent periods;
- a summary of the history and current status of the Copyright Tribunal proceeding; and
- a review of whether there are further sources of data of copying available.

513. Copyright Agency included a link to information on its website about the

status of the proceeding in the Copyright Tribunal. The Copyright Agency web page includes a lengthy "Update on data collection from school sector".

514. Copyright Agency assured CA1 that its concerns would be reported to the Code Reviewer.

515. Since then, Copyright Agency has not received further correspondence from CA1.

Copyright Agency Complaint 2 – CA2

516. CA2 was the author of educational materials for use in primary schools, and complained on 25 October 2022 about the level of distribution payments, and on 8 November 2022 that data from his website had been shared by a large school to its teachers without its having the necessary licence.

517. CA2 said that this was most frustrating as he knew that this particular school had engaged in that behaviour since 2017, causing CA2 to miss out on about \$2,500 - \$3,000 in revenue. CA2 stated:

" ... they want to use my tests and each year they get a teacher to take up a free trial and then that teacher downloads the tests for all of the other teachers. Thus no one is paying for the resources."

518. Copyright Agency wrote to CA2 on 8 December 2022 asking him to send to it the terms of use for the "subscription" and the terms of the use for the "trial version" that set out what teachers are permitted to do with the content.

519. On 12 December 2022, CA2 gave Copyright Agency a link to its website for its "terms of use". The link exposes "The Copyright Agreement" which sets out the terms of use of the "RESOURCE".

520. On 22 December 2022, Copyright Agency responded to CA2 advising that licence fees for 2023 would be the same as for 2022, namely \$13 per student.

521. The email continued by informing CA2 that Copyright Agency was working towards new methods of data collection, using modern technologies which minimise teacher burden. The “old surveys” had been paused since March 2020 while Copyright Agency did this. The email continued:

“We will need to review how we deal with directly licensed content like yours. The current licence seems to be quite broad, and the circumstances in which teachers would rely on the education statutory licence rather than the direct licence may be quite limited.”

522. On the same day, CA2 replied expressing bewilderment because it did not license per student but charged a licence fee of \$33 per teacher.

523. On the same day, Copyright Agency replied explaining that the \$13 per student referred to the “schools sector” rate which was fixed in advance each year and would remain at \$13 per student for 2023.

524. In a rather lengthy email dated 18 July 2023, CA2 again raised the question of unauthorised copying by teachers.

525. CA2’s email stated that from his perspective, Copyright Agency had misinterpreted how his Copyright Agreement worked by accepting that, in all situations, teachers using his resources had the right to do so when in fact they may not. He concluded:

“Is there something that can be done about this. I feel I have lost out on many thousands of dollars in copyright revenue through this oversight by CAL.”

526. There followed a real-time “online chat” between CA2 and a Copyright Agency officer.

527. In the online meeting, the Copyright Agency officer explained the relationship between copyright uses that are allowed by a publisher's terms of use, and the statutory licence for the education sector. Copyright Agency refers to the former as a "Direct Licence".
528. Any payments that CA2 receives from Copyright Agency are for uses that are not covered by its "Direct Licence". When Copyright Agency was receiving its survey data, schools would report on their Direct Licences and Copyright Agency would exclude any usage under the latter from its fee negotiations with school authorities and from its data for distribution.
529. CA2 has raised concerns about uses of its content by "unlicensed teachers". Copyright Agency has attempted to explain that the payments that CA2 is receiving from Copyright Agency cover "unlicensed uses" (that is, uses not covered by a CA2 Direct Licence), and that CA 2 gives quite a wide licence to users (which may mean that there is limited reliance on the education statutory licence).
530. Copyright Agency reports that it has not received any further correspondence from CA2.

Copyright Agency Complaint 3 – CA3

531. This complainant was an academic author. She complained on 7 November 2022 that she had been underpaid by Copyright Agency over the past eight or more years.
532. Copyright Agency had one article written by her registered. CA3 complained that Copyright Agency should have other works by her registered as well, but Copyright Agency informed CA3 that it had carried out a search of its payment records back to 2015 with nil results for any other work.

533. On 8 November 2022, Copyright Agency replied confirming that it had not received payment for articles written by CA3 in recent years. It advised that it had added the particular article to her “account”.

534. On 26 November 2022, Copyright Agency wrote to CA3 noting that Copyright Agency’s Distribution Policy permitted the making of a discretionary (ex gratia) payment to a rights holder who can establish that their work was substantially copied under a licence administered by Copyright Agency, but who received little or no payment for that use. In addition, the email explained to CA3 that the system enabled members to register publications and works not already in Copyright Agency’s database. The one publication that was registered for CA3 had been published in 2006. Copyright Agency’s email stated:

“If you would like assistance from us to register other publications containing works in which you own copyright, please let us know.”

535. On 26 June 2023, Copyright Agency informed CA3 that there was only the one article in Copyright Agency’s “old system” and that it had been migrated to the “new system”.

536. CA3 responded on the same day that “it cannot be true” that there was only the one work attributed to her in the old system. CA3 questioned whether Copyright Agency had “really” checked the usage records for CA3’s works.

537. Copyright Agency has reported to me that the “new system” was launched in 2020. It included a new Member Portal (online accounts for members) and a new Works database.

538. The new system also features the following capabilities: in one section of their online account, author members can see books linked to them in the Works database. In another section of their online account, author members can see some journal articles for which they received recent

payments before 2020, and they can also add other journal articles in which they own copyright.

539. Copyright Agency further reports that they did not “migrate” journal articles from the old system to the new system that had not received a recent payment. It therefore had a record of CA3's article in its systems, but it was not viewable from her online account. The Member Services team added the article to her online account in 2022 so she could view it, and informed her that she could add other articles by logging into her online account. The Member Services team subsequently added other articles in which CA3 advised she owned copyright.

Copyright Agency Complaint 4 – CA4

540. CA4 is described in Copyright Agency's report to me as “a sole trade tutor”. On 30 May 2023 she emailed Copyright Agency advising that she had “purchased an educational licence for this year [calendar 2023]” and asked what she should do if she should decide not to continue her tutoring business in 2024. Copyright Agency's Licensing and Compliance Officer replied advising that she should give notice in October 2023. But the letter then also advised that CA4 should regularise the position for 2022 by providing her figures for that year. CA4 replied that she had not tutored in that year, having resumed tutoring only in March 2023. Copyright Agency explained that she had held a licence for 2022 and renewed for 2023 on 29 May 2023, and that it was “difficult to skip one year to another”.

541. CA4 advised that she was a sole trader and had only five students, and none in 2022 due to her full time work in a public school in that year. This led Copyright Agency to advise that in the light of this there was no amount payable for 2022, given the fact that CA4 had had no students in that year. This outcome was satisfactory. Copyright Agency's Manager (Head of Education & Government Licensing) called and emailed CA4

but she did not respond.

Copyright Agency Complaint 5 – CA5

542. Copyright Agency's report to me describes CA5 as "a licensee for education services". As "a body administering an educational institution", CA5 enjoyed the statutory licence granted by subs 113P(1) of the *Copyright Act 1968* (Cth). CA5 had a new employee who complained about the way in which Copyright Agency's Licensing & Compliance Officer had communicated the termination of CA5's licence after several requests for data relevant to the licence fee (by email and phone) went unanswered.

543. So far as the Accompanying Underlying Documents reveal, this is the only "complaint" that was made. Copyright Agency's Senior Manager for Education Licensing called the employee who said that CA5 did not want to make a formal complaint.

544. The correspondence concludes with Copyright Agency's offering to assist CA5 with submission of its figures for 2022 and 2023 and to help in any other way.

Copyright Agency Complaint 6 – CA6

545. CA6 was complainant CA3 in the Compliance Report for 2021-2022.

546. CA6 wrote to Copyright Agency on 13 June 2023 advising that a number of problematic issues had come to light that they believed should be addressed by Copyright Agency. However, rather than submitting an additional complaint, CA6 thought it better to proceed less formally by email. CA6 wrote:

"Specifically, it [the complaint] relates to false information about [CA6] that [was] being distributed by the publisher, ... in relation to ... Copyright Agency as [he was] in the

process of acquitting [his] Australian Council for the Arts grant that [he] subsequently received independently, [he wanted] to ensure that all funding boards [were] transparent."

The email referred to specific statements made on the publisher's website. CA6 offered to lodge a "more formal complaint" if that was preferred.

547. On 14 June 2023, Copyright Agency replied undertaking to contact the publisher to clarify the information on its website and the bookshop catalogue entry of which complaint had been made. Copyright Agency suggested that the problem may have been that the publisher had used information that it had at the time when it was planning to publish CA6's work and before it decided not to do so.

548. Apparently, Copyright Agency did contact the publisher and on 27 June 2023 it wrote to CA6 advising that the publisher had removed information from its website and corrected other information.

549. On 27 June 2023, CA6 wrote to Copyright Agency thanking it for having followed the matter up.

Copyright Agency Complaint 7 – CA7

550. Copyright Agency reports that in October 2022, it received a letter from a legal firm representing a member, threatening legal proceedings in relation to a number of matters relating to distribution payments to the member. Some of these matters were reported to me as Code Reviewer, most recently in 2019. Copyright Agency has referred the matter to its external legal advisers and the matter remains unresolved.

551. It is not within the Code Reviewer's role to intervene in disputes in which Copyright Agency and a complainant are legally represented.

Copyright Agency Complaint 8 – CA8

552. Copyright Agency reports that in addition to its licence fee agreements with peak bodies for the school, TAFE and university sectors, it has about

1,000 licence agreements with other education providers, such as private universities and registered training organisations. They include educational institutions that are members of the Independent Higher Education Association (**IHEA**).

553. In 2022 to 2023, Copyright Agency began a review of licence fees charged to individually licensed educational institutions, partly as a result of some members of IHEA having complained about the level of licence fees they were paying.

554. Copyright Agency reports that it has conducted a thorough review process and is in discussions with IHEA.

Audio-Visual Copyright Society Limited (“Screenrights”)

555. Screenrights reports that its procedures with respect to clause 3 of the Code are available in the Corporate Governance section of its website, which includes information on procedures for the handling of complaints and disputes between Screenrights and its licensees and between Screenrights and its members.

556. Screenrights reports that through yearly Code of Conduct training and staff inductions, Screenrights seeks to ensure that staff are trained to understand that responding to complaints and resolving disputes in a timely manner is a key priority for Screenrights.

557. Screenrights received no complaints in the Review Period.

558. In the period, Screenrights made no substantive changes to its Competing Claims Resolution Procedures (**CCRP**) but did consult with members about proposed changes, the outcome of which was the introduction of new

CCRP with effect from 1 July 2023. The CCRP are available on the Screenrights' website.

559. In the year ended 30 June 2023, Screenrights received over 98,000 registrations of claims, bringing the total number of registrations up to almost 1.8 million. Also over the Review Period, Screenrights opened competing claims involving 372 series and 1046 one-off programs, and notified members of the competing claims via direct communication and the MyScreenrights portal.
560. During the Review Period, competing claims were closed for 1,320 series and 3,559 one-off programs. No requests were received from members for an Expert Determination.

Phonographic Performance Company of Australia Ltd ("PPCA")

General

561. In the Review Period there were six complaints made to PPCA, which has reported on them as follows.

PPCA Complaint 1

562. According to the website of The Observership Program, PPCA is one of several not-for-profit "Partners" of the Program, which "provides training and practical experience in not-for-profit and Government appointed board leadership and ongoing networking opportunities to create a passionate and motivated community of future leaders".
563. On 8 September 2022 PPCA Complainant 1, a PPCA Registered Artist, complained that PPCA's "Board Observership Program" is discriminatory

in that it is only open to:

- PPCA-registered artists who identify as female or non-binary;
- Employees of PPCA licensors who identify as female or non-binary; and
- Registered artists who identify as a First Nations person; or
- Employees of PPCA licensors who identify as a First Nations person.

564. The complaint was made tersely: "So being a male is not OK?????"

565. The four eligibility criteria were stated in an email that had been issued by PPCA earlier on 8 September 2022 to PPCA Registered Artists, inviting "applications for the PPCA Observership Program, delivered in conjunction with The Observership Program Limited (**TOPL**)".

566. That invitation explained that the successful applicant/s would be given the opportunity to attend PPCA Board meetings held in Sydney or virtually during the year.

567. The Chief Operating Officer of PPCA replied to the complainant the next day advising him that the intention was not to be discriminatory but to make for underrepresented sections of the community to participate fully. PPCA advised that for many years the PPCA Board had, at best, only one in nine female board members and no First Nations representation. PPCA explained that good governance dictated that these issues be addressed by ensuring that the Board was more representative of stakeholders. PPCA advised: "If you are interested in a Board observership opportunity please note that *the Observership Program* operates across a range of not-for-profit entities (beyond PPCA) and accepts applications from all individuals that meet its eligibility criteria".

568. There was no response from PPCA Complainant 1.

PPCA Complaint 2

562. This complainant, a member of the public, reported to PPCA that a radio station (not named) was broadcasting music directly from the complainant's personal Spotify accounts. She asked to whom this should be reported, if not to PPCA.

563. The following day PPCA's Chief Operating Officer responded to the effect that this was not within PPCA's control and PPCA suggested that the complainant write to the radio station or contact the relevant industry association (CBAA for community radio stations or CRA for commercial radio stations) or contact ACMA.

564. There has been no further response from PPCA Complainant 2.

PPCA Complaint 3

562. On 6 December 2022, a licensor complained about the choice of words in the title of PPCA's press release on the new sexual harassment laws. The title was "New Sexual Harassment Laws: Don't get caught out". The complainant recommended that women be involved in the preparation of such documents in the future. I assume that the complainant considered that the words "Don't get caught out" did not treat the subject matter seriously, by warning only against being caught.

563. The following day, PPCA replied thanking the complainant for drawing the matter to PPCA's attention, but confirming that women (and only women) were in fact involved in the preparation of the document. PPCA undertook to share the complainant's feedback with them so that the complaint could be taken into account when further communications of the same type are made.

PPCA Complaint 4

564. PPCA Complainant 4 was a licensor who complained by email on 8 December 2022 over PPCA's Distribution Department's handling of his query about when he would be receiving payment for a track. The complaint was that PPCA's response was evasive and vague.
565. On the following day, 9 December 2022, PPCA's Complaints Officer replied expressing sympathy with the complainant's frustration, but explaining that it seemed that the complainant and the Distribution Officer were at cross-purposes. PPCA explained that the complainant's most recent query appeared to be about payment of past earnings that had been held because they were subject to a dual claim, while the Distribution Officer was referring to the current year's distribution which was still being processed.
566. PPCA's response explained that the dual claim had been resolved and the amount held for the track in the prior year had been released and would be redirected for payment in the upcoming distribution.
567. The following day the complainant thanked PPCA for the clarification.

PPCA Complaint 5

562. On 9 February 2023, this complainant, a PPCA Registered Artist, wrote to PPCA advising that a friend had told him that he was on PPCA's "Lost Artists' List". The following day, PPCA replied informing the complainant about its recently developed portal for "Registered Artists and Licensors", and suggested that the complainant "sign up for access to the portal via which he could update the information concerning him".

563. PPCA Complainant 5 then wrote on 7 March 2023 complaining that the portal was “astonishingly unstable” and gave illustrative experiences that he had had. The complainant asserted that PPCA was a “scam set up by record companies to funnel money from artists into costs that record companies should pay themselves, thus increasing their bottom line and ripping off those that are poorly represented”.
564. On 8 March 2023, the COO of PPCA replied courteously, addressing the points made.
565. On 8 March 2023, PPCA Complainant 5 complained by email to PPCA that (1) he had been listed as a “lost artist” on PPCA’s website; (2) he was having difficulty logging on to PPCA’s portal; and (3) the “complaints” link on PPCA’s webpage was not working.
566. PPCA’s Complaints Officer responded on the same day, explaining why PPCA publishes the “lost artists list”. The email from PPCA also explained that the first phase of the portal had only recently been launched and that while many artists and licensors were using it successfully, the complaints feedback was helpful and action was being taken in respect of it.
567. As to the webpage “complaints” link, PPCA undertook to investigate that further if the complainant would advise which browser he was using. PPCA also requested the complainant’s bank account details in order that the outstanding payment could be expedited.
568. Finally, PPCA rejected a reference by the complainant to PPCA as a “scam” and offered to arrange a call to discuss any specific questions about PPCA’s activities and expenditures.

569. The complainant had asserted that PPCA was viewed by artists as “a scam set up by record companies to funnel money from artists into costs that record companies should pay themselves, thus increasing their bottom line and ripping off those that are poorly represented”.

570. In rejecting this complaint, PPCA's email informed the complainant that PPCA's cost to revenue ratio, although higher than PPCA would like while revenues were reduced during the pandemic period, was still at a level that met or exceeded international comparisons at 16.1%, 16.6% and 15.4% (for 2022, 2021 and 2020 respectively). PPCA's email informed the complainant that its costs were overwhelmingly related to the direct costs of obtaining and distributing the licensing revenue collected. The email concluded by saying that if the complainant had any specific questions about PPCA's activities or expenditure, the complainant should contact the Chief Operating Officer of PPCA so that she could address them. She offered to arrange a call if that would be convenient.

PPCA Complaint 6

568. On 26 March 2023, the complainant, an officer of a radio station, emailed PPCA asking if it could confirm whether a rival station was licensed with PPCA as it had been rebroadcasting his own station's “shows” without permission. The next day the PPCA Complaints Officer advised that PPCA was already in contact with the rival radio network but that this did not mean that the rival station did not need to engage with the complainant's own radio station about the broadcast of its material.

Australian Writers' Guild Authorship Collecting Society Ltd ("AWGACS")

569. AWGACS reports that its Complaints Handling Procedure and Dispute Resolution Procedure were developed in line with the requirements of the Code, the requirements of the International Confederation of Societies of Authors and Composers (**CISAC**) and the Australian Standard AS4269-1995 (Complaints Handling).

570. During the Review period, AWGACS received no requests from members for these documents and no complaints from members or affiliates.

571. The procedures were reviewed during the Review Period by CISAC.

Australian Screen Directors Authorship Collecting Society Ltd ("ASDACS")

572. ASDACS reports that the Review Period covers the distribution of 1 January 2021 – July 2022 royalty income, during which period no formal complaints were lodged.

573. ASDACS reports that in accordance with recommendations of the Code Reviewer previously made, ASDACS has a specific Complaints Register, separate from other general records of interactions with members.

D. COMPLAINT MADE DIRECTLY TO THE CODE COMPLIANCE REVIEWER

574. One submission was received from Copyright Advisory Group (**CAG**) in response to the advertisement inviting submissions.

Copyright Advisory Group (CAG)

575. The Copyright Advisory Group (**CAG**) representing schools and TAFEs, made a submission directly to me, to which Copyright Agency provided a written response.

576. At my request, the Secretariat convened an online meeting with Delia Browne, the National Copyright Director of CAG, and Libby Baulch, the Policy Director of Copyright Agency, which took place on 10 November 2023.

577. The respective papers were discussed.

578. I will not attempt to summarise the papers or the discussion. Ms Browne argued that since the school and TAFE sectors (and CAG itself) are publicly funded and are accountable accordingly for their expenditures, payments that they make to Copyright Agency should likewise be rigorously accounted for. Ms Browne contended that there is a lack of transparency at present.

579. She said that CAG was seeking only the same kind of transparency that is practised in Canada, and she displayed a diagrammatic representation of the destination of the comparable funds in that country.

580. Ms Baulch contended that the information sought was in fact provided on the Copyright Agency website, although not in diagrammatic form.

581. Subsequently, Ms Baulch provided two diagrams showing allocations for copyright fees from the school and TAFE sectors in 2023, and the Secretariat forwarded them to Ms Browne.

582. Ms Browne responded on 29 November 2023. The reply raised several questions about the meaning of aspects of the diagrams. In order to test whether her understanding was correct, she inserted figures that she derived from Ms Baulch's diagrams into the diagrams that she had prepared. These will be provided to Ms Baulch for a response.

583. That is the stage reached at the time of finalisation of this report.

584. There is no doubt in my mind that the process of online meeting and exchange of information has been most worthwhile and I will encourage Copyright Agency and CAG to continue along that path.

E. CONCLUSION

585. As contemplated by cl 5.1 (c) (i) of the Code, I conclude that, overall, there has been a high level of compliance with the Code.

586. This report is now submitted to the societies and to the Attorney-General's Department.

Dated: 30 November 2023



.....

The Hon Kevin E Lindgren, AM, KC
Code Compliance Reviewer

APPENDIX A - CALL FOR SUBMISSIONS 2023

Notice of the Review, with an invitation to make submissions by mail to the Code Reviewer at a specified address or by email by 31 July 2023, was given by the Societies to their members, and by the Code Review Secretariat to some licensees of the various societies or to bodies representing large classes of licensees, as well as to other interested persons, names and addresses having been supplied by the societies. The Notice was published in an advertisement in *The Australian* newspaper on 17 June 2023 and it was also placed on the websites of the societies. It was in the following terms:

The Code Reviewer

Suite 704
4 Young Street
NEUTRAL BAY NSW 2089
EMAIL: codereviewer@gmail.com

COPYRIGHT COLLECTING SOCIETIES CODE OF CONDUCT CALL FOR SUBMISSIONS 2023

Each of the copyright collecting societies, Australasian Performing Right Association Limited ("APRA"), Australasian Mechanical Copyright Owners Society Limited ("AMCOS"), Phonographic Performance Company of Australia Limited ("PPCA"), Copyright Agency Limited ("Copyright Agency"), Audio-Visual Copyright Society Limited ("Screenrights"), Australian Writers' Guild Authorship Collecting Society Limited ("AWGACS") and Australian Screen Directors Authorship Collecting Society Limited ("ASDACS"), subscribes to a code of conduct. In its original form, the Code came into effect in July 2002. The most recent update came into effect on 20 May 2022.

A copy of the Code is available on each Society's website or from the Code of Conduct for Copyright Collecting Societies website <https://www.copyrightcodeofconduct.org.au/code> and can be downloaded or, if requested, a copy can be supplied by post.

Compliance by participating collecting societies with the Code's standards of conduct is the subject of an independent annual review. The Code Reviewer for this purpose is former Federal Court judge and former President of the Copyright Tribunal of Australia, The Hon Kevin Lindgren AM, KC. His current task is to review the Societies' compliance with the Code during the period **1 July 2022 to 30 June 2023**.

The Code allows for interested parties to make submissions to the Code Reviewer concerning a collecting society's compliance or non-compliance with the Code. If you wish to make a submission, **please inform the Code Review Secretariat** at the address above or by email (codereviewer@gmail.com). The Secretariat will send you details about the procedure for making a submission.

The closing date for completing the submission process is **31 July 2023**.